2016

SESSION LAWS

OF THE

STATE OF WASHINGTON

2016 REGULAR SESSION
SIXTY-FOURTH LEGISLATURE
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WASHINGTON SESSION LAWS
GENERAL INFORMATION

1. EDITIONS AVALIABLE.

   (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 2016 regular session is June 9, 2016.

   (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 2016 laws may be found at the back of the final volume.

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CHAPTER 1

[Initiative 1366]

State Taxes and Fees

AN ACT Relating to taxes and fees imposed by state government; amending RCW 82.08.020, 43.135.031, and 43.135.041; adding new sections to chapter 43.135 RCW; creating new sections; and providing a contingent expiration date.

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

2/3 CONSTITUTIONAL AMENDMENT

COMPLETE TEXT

INTENT

NEW SECTION. **Sec. 1.** Over the past twenty years, the taxpayers have been required to pay increasing taxes and fees to the state, hampering economic growth and limiting opportunities for the citizens of Washington.

The people declare and establish that the state needs to exercise fiscal restraint by either reducing tax burdens or limiting tax increases to only those considered necessary by more than a bare majority of legislators.

Since 1993, the voters have repeatedly passed initiatives requiring two-thirds legislative approval or voter approval to raise taxes and majority legislative approval for fee increases. However, the people have not been allowed to vote on a constitutional amendment requiring these protections even though the people have approved them on numerous occasions.

This measure provides a reduction in the burden of state taxes by reducing the sales tax, enabling the citizens to keep more of their own money to pay for increases in other state taxes and fees due to the lack of a constitutional amendment protecting them, unless the legislature refers to the ballot for a vote a constitutional amendment requiring two-thirds legislative approval or voter approval to raise taxes and majority legislative approval for fee increases. The people want to ensure that tax and fee increases are consistently a last resort.

REDUCE THE SALES TAX UNLESS...

Sec. 2. RCW 82.08.020 (Tax imposed--Retail sales--Retail car rental) and 2014 c 140 s 12 are each amended to read as follows:

(1) There is levied and collected a tax equal to ((~~six~~)) five and five-tenths percent of the selling price on each retail sale in this state of:

(a) Tangible personal property, unless the sale is specifically excluded from the RCW 82.04.050 definition of retail sale;

(b) Digital goods, digital codes, and digital automated services, if the sale is included within the RCW 82.04.050 definition of retail sale;

(c) Services, other than digital automated services, included within the RCW 82.04.050 definition of retail sale;

(d) Extended warranties to consumers; and

(e) Anything else, the sale of which is included within the RCW 82.04.050 definition of retail sale.

(2) There is levied and collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. The revenue collected under this subsection

must be deposited in the multimodal transportation account created in RCW 47.66.070.

(3) Beginning July 1, 2003, there is levied and collected an additional tax of three-tenths of one percent of the selling price on each retail sale of a motor vehicle in this state, other than retail car rentals taxed under subsection (2) of this section. The revenue collected under this subsection must be deposited in the multimodal transportation account created in RCW 47.66.070.

(4) For purposes of subsection (3) of this section, "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include:

(a) Farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, unless the farm tractor or farm vehicle is for use in the production of marijuana;

(b) Off-road vehicles as defined in RCW 46.04.365;

(c) Nonhighway vehicles as defined in RCW 46.09.310; and

(d) Snowmobiles as defined in RCW 46.04.546.

(5) Beginning on December 8, 2005, 0.16 percent of the taxes collected under subsection (1) of this section must be dedicated to funding comprehensive performance audits required under RCW 43.09.470. The revenue identified in this subsection must be deposited in the performance audits of government account created in RCW 43.09.475.

(6) The taxes imposed under this chapter apply to successive retail sales of the same property.

(7) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

...UNLESS THE LEGISLATURE REFERS TO THE BALLOT FOR A VOTE A CONSTITUTIONAL AMENDMENT REQUIRING TWO-THIRDS LEGISLATIVE APPROVAL OR VOTER APPROVAL TO RAISE TAXES AND MAJORITY LEGISLATIVE APPROVAL FOR FEE INCREASES

NEW SECTION. **Sec. 3.** (1) Section 2 of this act takes effect April 15, 2016, unless the contingency in subsection (2) of this section occurs.

(2) If the legislature, prior to April 15, 2016, refers to the ballot for a vote a constitutional amendment requiring two-thirds legislative approval or voter approval to raise taxes as defined by voter-approved Initiatives 960, 1053, and 1185 and section 6 of this act and majority legislative approval for fee increases as required by voter-approved Initiatives 960, 1053, and 1185 and codified in RCW 43.135.055 and further defined by subsection (a) of this section, section 2 of this act expires on April 14, 2016.

(a) "Majority legislative approval for fee increases" means only the legislature may set a fee increase's amount and must list it in a bill so it can be subject to the ten-year cost projection and other accountability procedures required by RCW 43.135.031.

STATUTORY REFERENCE UPDATES

Sec. 4. RCW 43.135.031 (Bills raising taxes or fees - Cost analysis - Press release - Notice of hearings - Updated analyses) and 2013 c 1 s 5 are each amended to read as follows:

(1) For any bill introduced in either the house of representatives or the senate that raises taxes as defined by ((~~RCW 43.135.034~~)) section 6 of this act or

increases fees, the office of financial management must expeditiously determine its cost to the taxpayers in its first ten years of imposition, must promptly and without delay report the results of its analysis by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, who are sponsors and cosponsors of the bill so they can provide information to, and answer questions from, the public.

(2) Any time any legislative committee schedules a public hearing on a bill that raises taxes as defined by ((~~RCW 43.135.034~~)) section 6 of this act or increases fees, the office of financial management must promptly and without delay report the results of its most up-to-date analysis of the bill required by subsection (1) of this section and the date, time, and location of the hearing by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. The press release required by this subsection must include all the information required by subsection (1) of this section and the names of the legislators, and their contact information, who are members of the legislative committee conducting the hearing so they can provide information to, and answer questions from, the public.

(3) Each time a bill that raises taxes as defined by ((~~RCW 43.135.034~~)) section 6 of this act or increases fees is approved by any legislative committee or by at least a simple majority in either the house of representatives or the senate, the office of financial management must expeditiously reexamine and redetermine its ten-year cost projection due to amendment or other changes during the legislative process, must promptly and without delay report the results of its most up-to-date analysis by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, and how they voted on the bill so they can provide information to, and answer questions from, the public.

(4) For the purposes of this section, "names of legislators, and their contact information" includes each legislator's position (senator or representative), first name, last name, party affiliation (for example, Democrat or Republican), city or town they live in, office phone number, and office e-mail address.

(5) For the purposes of this section, "news media" means any member of the press or media organization, including newspapers, radio, and television, that signs up with the office of financial management to receive the public press releases by e-mail.

(6) For the purposes of this section, "the public" means any person, group, or organization that signs up with the office of financial management to receive the public press releases by e-mail.

Sec. 5. RCW 43.135.041 (Tax legislation - Advisory vote - Duties of the attorney general and secretary of state - Exemption) and 2013 c 1 s 6 are each amended to read as follows:

(1)(a) After July 1, 2011, if legislative action raising taxes as defined by ((~~RCW 43.135.034~~)) section 6 of this act is blocked from a public vote or is not referred to the people by a referendum petition found to be sufficient under RCW 29A.72.250, a measure for an advisory vote of the people is required and shall be placed on the next general election ballot under this chapter.

(b) If legislative action raising taxes enacted after July 1, 2011, involves more than one revenue source, each tax being increased shall be subject to a separate measure for an advisory vote of the people under the requirements of this chapter.

(2) No later than the first of August, the attorney general will send written notice to the secretary of state of any tax increase that is subject to an advisory vote of the people, under the provisions and exceptions provided by this chapter. Within five days of receiving such written notice from the attorney general, the secretary of state will assign a serial number for a measure for an advisory vote of the people and transmit one copy of the measure bearing its serial number to the attorney general as required by RCW 29A.72.040, for any tax increase identified by the attorney general as needing an advisory vote of the people for that year's general election ballot. Saturdays, Sundays, and legal holidays are not counted in calculating the time limits in this subsection.

(3) For the purposes of this section, "blocked from a public vote" includes adding an emergency clause to a bill increasing taxes, bonding or contractually obligating taxes, or otherwise preventing a referendum on a bill increasing taxes.

(4) If legislative action raising taxes is referred to the people by the legislature or is included in an initiative to the people found to be sufficient under RCW 29A.72.250, then the tax increase is exempt from an advisory vote of the people under this chapter.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.135 RCW to read as follows:

For the purposes of this chapter, "raises taxes" means any action or combination of actions by the state legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.

CONSTRUCTION CLAUSE

NEW SECTION. **Sec. 7.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

SEVERABILITY CLAUSE

NEW SECTION. **Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

TITLE OF THE ACT

NEW SECTION. **Sec. 9.** This act is known and may be cited as the "Taxpayer Protection Act."

CHAPTER 2

[Initiative 1401]

Trafficking of Animal Species Threatened with Extinction

AN ACT Relating to the trafficking of animal species threatened with extinction; amending RCW 77.15.085, 77.15.100, and 77.15.425; reenacting and amending RCW 77.08.010; adding a new section to chapter 77.15 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** There is broad consensus that the trafficking of animals threatened with extinction continues to grow at an alarming pace, threatening an increasing variety of animal species including elephants, rhinoceroses, tigers, lions, leopards, cheetahs, pangolins, marine turtles, sharks, and rays, among others. These species are threatened with extinction in large part due to the trafficking of their parts and products. The national strategy for combating wildlife trafficking, released in February 2014, recognized the important role that states have in protecting species that are subject to illegal wildlife trade. Federal law regulates the transfer or importation of parts or products made from endangered animal species, but due to the increasing demand for these products around the world, state authority needs to be expanded to appropriately regulate these markets on a local level.

The most effective way to discourage illegal trafficking in animal species threatened with extinction is to eliminate markets and profits. The people find that it is in the public interest to protect animal species threatened with extinction by prohibiting within the state of Washington, with certain limited exceptions, the sale, offer for sale, purchase, trade, barter for, and distribution of any part or product of any species of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, shark, or ray identified as threatened with extinction by specified international conservation organizations. These animals represent some of the most trafficked species threatened with extinction according to illegal wildlife product seizure data gathered by the world wildlife fund-TRAFFIC, international union for conservation of nature, and other international conservation organizations.

Sec. 2. RCW 77.08.010 and 2014 c 202 s 301 and 2014 c 48 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this title or rules adopted under this title unless the context clearly requires otherwise.

(1) "Anadromous game fish buyer" means a person who purchases or sells steelhead trout and other anadromous game fish harvested by Indian fishers lawfully exercising fishing rights reserved by federal statute, treaty, or executive order, under conditions prescribed by rule of the director.

(2) "Angling gear" means a line attached to a rod and reel capable of being held in hand while landing the fish or a hand-held line operated without rod or reel.

(3) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.

(4) "Building" means a private domicile, garage, barn, or public or commercial building.

(5) "Closed area" means a place where the hunting of some or all species of wild animals or wild birds is prohibited.

(6) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an open season or that have not otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission as an open season.

(7) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing or harvesting is prohibited.

(8) "Commercial" means related to or connected with buying, selling, or bartering.

(9) "Commission" means the state fish and wildlife commission.

(10) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.

(11) "Contraband" means any property that is unlawful to produce or possess.

(12) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.

(13) "Department" means the department of fish and wildlife.

(14) "Director" means the director of fish and wildlife.

(15) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

(16) "Ex officio fish and wildlife officer" means:

(a) A commissioned officer of a municipal, county, or state agency having as its primary function the enforcement of criminal laws in general, while the officer is acting in the respective jurisdiction of that agency;

(b) An officer or special agent commissioned by one of the following: The national marine fisheries service; the Washington state parks and recreation commission; the United States fish and wildlife service; the Washington state department of natural resources; the United States forest service; or the United States parks service, if the agent or officer is in the respective jurisdiction of the primary commissioning agency and is acting under a mutual law enforcement assistance agreement between the department and the primary commissioning agency;

(c) A commissioned fish and wildlife peace officer from another state who meets the training standards set by the Washington state criminal justice training commission pursuant to RCW 10.93.090, 43.101.080, and 43.101.200, and who is acting under a mutual law enforcement assistance agreement between the department and the primary commissioning agency; or

(d) A Washington state tribal police officer who successfully completes the requirements set forth under RCW 43.101.157, is employed by a tribal nation that has complied with RCW 10.92.020(2) (a) and (b), and is acting under a mutual law enforcement assistance agreement between the department and the tribal government.

(17) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish not currently classified as food fish or game

fish if such species exist in state waters. The term "fish" includes all stages of development and the bodily parts of fish species.

(18) "Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce this title and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent or a fisheries patrol officer.

(19) "Fish broker" means a person whose business it is to bring a seller of fish and shellfish and a purchaser of those fish and shellfish together.

(20) "Fish buyer" means:

(a) A wholesale fish dealer or a retail seller who directly receives fish or shellfish from a commercial fisher or receives fish or shellfish in interstate or foreign commerce; or

(b) A person engaged by a wholesale fish dealer who receives fish or shellfish from a commercial fisher.

(21) "Fishery" means the taking of one or more particular species of fish or shellfish with particular gear in a particular geographical area.

(22) "Food, food waste, or other substance" includes human and pet food or other waste or garbage that could attract large wild carnivores.

(23) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.

(24) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

(25) "Fur dealer" means a person who purchases, receives, or resells raw furs for commercial purposes.

(26) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

(27) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

(28) "Game farm" means property on which wildlife is held, confined, propagated, hatched, fed, or otherwise raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

(29) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

(30) "Illegal items" means those items unlawful to be possessed.

(31)(a) "Intentionally feed, attempt to feed, or attract" means to purposefully or knowingly provide, leave, or place in, on, or about any land or building any food, food waste, or other substance that attracts or could attract large wild carnivores to that land or building.

(b) "Intentionally feed, attempt to feed, or attract" does not include keeping food, food waste, or other substance in an enclosed garbage receptacle or other enclosed container unless specifically directed by a fish and wildlife officer or animal control authority to secure the receptacle or container in another manner.

(32) "Large wild carnivore" includes wild bear, cougar, and wolf.

(33) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.

(34) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.

(35) "Money" means all currency, script, personal checks, money orders, or other negotiable instruments.

(36) "Natural person" means a human being.

(37)(a) "Negligently feed, attempt to feed, or attract" means to provide, leave, or place in, on, or about any land or building any food, food waste, or other substance that attracts or could attract large wild carnivores to that land or building, without the awareness that a reasonable person in the same situation would have with regard to the likelihood that the food, food waste, or other substance could attract large wild carnivores to the land or building.

(b) "Negligently feed, attempt to feed, or attract" does not include keeping food, food waste, or other substance in an enclosed garbage receptacle or other enclosed container unless specifically directed by a fish and wildlife officer or animal control authority to secure the receptacle or container in another manner.

(38) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

(39) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.

(40) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, take, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

(41) "Owner" means the person in whom is vested the ownership dominion, or title of the property.

(42) "Person" means and includes an individual; a corporation; a public or private entity or organization; a local, state, or federal agency; all business organizations, including corporations and partnerships; or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.

(43) "Personal property" or "property" includes both corporeal and incorporeal personal property and includes, among other property, contraband and money.

(44) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.

(45) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.

(46) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

(47) "Raffle" means an activity in which tickets bearing an individual number are sold for not more than twenty-five dollars each and in which a permit or permits are awarded to hunt or for access to hunt big game animals or wild turkeys on the basis of a drawing from the tickets by the person or persons conducting the raffle.

(48) "Resident" has the same meaning as defined in RCW 77.08.075.

(49) "Retail-eligible species" means commercially harvested salmon, crab, and sturgeon.

(50) "Saltwater" means those marine waters seaward of river mouths.

(51) "Seaweed" means marine aquatic plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free floating form, and includes but is not limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.

(52) "Senior" means a person seventy years old or older.

(53) "Shark fin" means a raw, dried, or otherwise processed detached fin or tail of a shark.

(54)(a) "Shark fin derivative product" means any product intended for use by humans or animals that is derived in whole or in part from shark fins or shark fin cartilage.

(b) "Shark fin derivative product" does not include a drug approved by the United States food and drug administration and available by prescription only or medical device or vaccine approved by the United States food and drug administration.

(55) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken or possessed except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

(56) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

(57) "Taxidermist" means a person who, for commercial purposes, creates lifelike representations of fish and wildlife using fish and wildlife parts and various supporting structures.

(58) "To fish" and its derivatives means an effort to kill, injure, harass, harvest, or capture a fish or shellfish.

(59) "To hunt" and its derivatives means an effort to kill, injure, harass, harvest, or capture a wild animal or wild bird.

(60) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.

(61) "To take" and its derivatives means to kill, injure, harvest, or capture a fish, shellfish, wild animal, bird, or seaweed.

(62) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

(63) "To waste" or "to be wasted" means to allow any edible portion of any game bird, food fish, game fish, shellfish, or big game animal other than cougar to be rendered unfit for human consumption, or to fail to retrieve edible portions of such a game bird, food fish, game fish, shellfish, or big game animal other than cougar from the field. For purposes of this chapter, edible portions of game birds must include, at a minimum, the breast meat of those birds. Entrails, including the heart and liver, of any wildlife species are not considered edible.

(64) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.

(65) "Unclaimed" means that no owner of the property has been identified or has requested, in writing, the release of the property to themselves nor has the owner of the property designated an individual to receive the property or paid the required postage to effect delivery of the property.

(66) "Unclassified wildlife" means wildlife existing in Washington in a wild state that have not been classified as big game, game animals, game birds,

predatory birds, protected wildlife, endangered wildlife, or deleterious exotic wildlife.

(67) "Wholesale fish dealer" means a person who, acting for commercial purposes, takes possession or ownership of fish or shellfish and sells, barters, or exchanges or attempts to sell, barter, or exchange fish or shellfish that have been landed into the state of Washington or entered the state of Washington in interstate or foreign commerce.

(68) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state. The term "wild animal" does not include feral domestic mammals or old world rats and mice of the family Muridae of the order Rodentia.

(69) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

(70) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, old world rats and mice of the family Muridae of the order Rodentia, or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.

(71) "Wildlife meat cutter" means a person who packs, cuts, processes, or stores wildlife for consumption for another for commercial purposes.

(72) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting.

(73) "Covered animal species" means any species of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, shark, or ray either: (a) Listed in appendix I or appendix II of the convention on international trade in endangered species of wild flora and fauna; or (b) listed as critically endangered, endangered, or vulnerable on the international union for conservation of nature and natural resources red list of threatened species.

(74) "Covered animal species part or product" means any item that contains, or is wholly or partially made from, any covered animal species.

(75) "Distribute" or "distribution" means either a change in possession for consideration or a change in legal ownership.

NEW SECTION. **Sec. 3.** A new section is added to chapter 77.15 RCW to read as follows:

(1) Except as authorized in subsections (2) and (3) of this section, it is unlawful for a person to sell, offer to sell, purchase, trade, barter for, or distribute any covered animal species part or product.

(2) The prohibitions set forth in subsection (1) of this section do not apply if any of the following conditions is satisfied:

(a) The covered animal species part or product is part of a bona fide antique, provided the antique status of such an antique is established by the owner or seller thereof with historical documentation evidencing provenance and showing the antique to be not less than one hundred years old, and the covered animal species part or product is less than fifteen percent by volume of such an antique;

(b) The distribution of the covered animal species part or product is for a bona fide educational or scientific purpose, or to or from a museum;

(c) The distribution of the covered animal species part or product is to a legal beneficiary of an estate, trust, or other inheritance, upon the death of the owner of the covered animal species part or product;

(d) The covered animal species part or product is less than fifteen percent by volume of a musical instrument, including, without limitation, string instruments and bows, wind and percussion instruments, and pianos; or

(e) The intrastate sale, offer for sale, purchase, trade, barter for, or distribution of the covered animal species part or product is expressly authorized by federal law or permit.

(3) The prohibitions set forth in subsection (1) of this section do not apply to an employee or agent of a federal, state, or local government undertaking any law enforcement activity pursuant to federal, state, or local law or any mandatory duty required by federal, state, or local law.

(4)(a) Except as otherwise provided in this section, a person is guilty of unlawful trafficking in species threatened with extinction in the second degree if the person commits the act described in subsection (1) of this section and the violation involves covered animal species parts or products with a total market value of less than two hundred fifty dollars.

(b) Except as otherwise provided in this section, a person is guilty of unlawful trafficking in species threatened with extinction in the first degree if the person commits the act described by subsection (1) of this section and the violation:

(i) Involves covered animal species parts or products with a total market value of two hundred fifty dollars or more;

(ii) Occurs after entry of a prior conviction under this section;

or

(iii) Occurs within five years of entry of a prior conviction for any other gross misdemeanor or felony under this chapter.

(c) Unlawful trafficking in species threatened with extinction in the second degree is a gross misdemeanor.

(d) Unlawful trafficking in species threatened with extinction in the first degree is a class C felony.

(e) If a person commits the act described by subsection (1) of this section and such an act also would be a violation of any other criminal provision of this title, the prosecuting authority has discretion as to which crime or crimes the person is charged as long as the charges are consistent with any limitations in the state and federal Constitutions.

(5) In addition to the penalties set forth in subsection (4) of this section, if a person is convicted of violating this section, the court shall require payment of a criminal wildlife penalty assessment in the amount of two thousand dollars that must 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.

(6) If two or more people are convicted under subsection (1) of this section, the criminal wildlife penalty assessment under this section must be imposed against each person jointly and severally.

(7) The criminal wildlife penalty assessment provided in this section must be doubled if the person is convicted of unlawful trafficking in species threatened with extinction in the first degree.

(8) By January 1, 2017, and thereafter annually, the director shall provide a comprehensive report outlining current and future enforcement activities and strategies related to this act, including recommendations regarding any necessary changes, to the relevant policy and fiscal committees of the senate and house of representatives.

(9) The commission may adopt rules necessary for the implementation and enforcement of this act.

Sec. 4. RCW 77.15.085 and 2000 c 107 s 232 are each amended to read as follows:

Fish and wildlife officers and ex officio fish and wildlife officers may seize without a warrant wildlife, fish, ((~~and~~)) shellfish, and covered animal species parts and products they have probable cause to believe have been taken, transported, or possessed in violation of this title or rule of the commission or director.

Sec. 5. RCW 77.15.100 and 2014 c 48 s 4 are each amended to read as follows:

(1) Fish, shellfish, and wildlife are property of the state under RCW 77.04.012. Fish and wildlife officers may sell seized, commercially taken or possessed fish and shellfish to a wholesale buyer and deposit the proceeds into the fish and wildlife enforcement reward account under RCW 77.15.425. Seized, recreationally taken or possessed fish, shellfish, and wildlife may be donated to nonprofit charitable organizations. The charitable organization must qualify for tax-exempt status under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code.

(2) Fish and wildlife officers may dispose of any covered animal species part or product seized through the enforcement of section 3 of this act through a donation to a bona fide educational or scientific institution, solely for the purposes of raising awareness of the trafficking and threatened nature of endangered animals, as allowed under state, federal, and international law.

(3) Unless otherwise provided in this title, fish, shellfish, ((~~or~~)) wildlife, or any covered animal species part or product taken or possessed in violation of this title or department rule shall be forfeited to the state upon conviction or any outcome in criminal court whereby a person voluntarily enters into a disposition that continues or defers the case for dismissal upon the successful completion of specific terms or conditions. For criminal cases resulting in other types of dispositions, the fish, shellfish, ((~~or~~)) wildlife, or covered animal species part or product may be returned, or its equivalent value paid, if the fish, shellfish, ((~~or~~)) wildlife, or covered animal species part or product have already been donated or sold.

Sec. 6. RCW 77.15.425 and 2014 c 48 s 17 are each amended to read as follows:

The fish and wildlife enforcement reward account is created in the custody of the state treasurer. Deposits to the account include: Receipts from fish and shellfish overages as a result of a department enforcement action; fees for hunter education deferral applications; fees for master hunter applications and master hunter certification renewals; all receipts from criminal wildlife penalty assessments under ((~~RCW 77.15.370, 77.15.400, and 77.15.420~~)) this chapter; all receipts of court-ordered restitution or donations associated with any fish,

shellfish, or wildlife enforcement action; and proceeds from forfeitures and evidence pursuant to RCW 77.15.070 and 77.15.100. The department may accept money or personal property from persons under conditions requiring the property or money to be used consistent with the intent of expenditures from the fish and wildlife enforcement reward account. Expenditures from the account may be used only for investigation and prosecution of fish and wildlife offenses, to provide rewards to persons informing the department about violations of this title and rules adopted under this title, to offset department-approved costs incurred to administer the hunter education deferral program and the master hunter permit program, and for other valid enforcement uses as determined by the commission. 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.

CHAPTER 3

[Engrossed Second Substitute Senate Bill 6195]

BASIC EDUCATION OBLIGATIONS--TASK FORCE

AN ACT Relating to basic education obligations; creating new sections; making appropriations; providing an expiration date; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** INTENT. During the past two biennia, the legislature has demonstrated its commitment to funding education through strong bipartisan support for funding its statutory formulas for: Pupil transportation; materials, supplies, and operating costs; full-day kindergarten; and class size reductions. In the 2015-2017 biennial budget, the legislature specifically increased funding to reduce class sizes in grades K-3. The legislature further included the previously scheduled 2017-2019 biennium completion of K-3 class size reduction funding in its adopted four-year budget outlook. The legislature has planned for and is fully committed to completing the scheduled phase in of K-3 class size reduction in the 2017-2019 biennium.

The state is fully committed to funding its program of basic education as defined in statute and to eliminating school district dependency on local levies for implementation of the state's program of basic education. It is the intent of the legislature to provide state funding for competitive salaries and benefits that are sufficient to hire and retain competent certificated instructional staff, administrators, and classified staff. Additionally, the legislature intends to minimize any disruptive impact to school districts and taxpayers.

The legislature finds that the lack of transparency in school district data regarding how districts use local levy funds limits its ability to make informed decisions concerning teacher compensation. Previous studies have analyzed market data for educator compensation and have provided recommendations on revisions to state allocation formulas, but these studies did not provide data and analysis of compensation paid by districts above basic education salary allocations above the statutory prototypical school model, the source of funding for this compensation, and the duties, uses, or categories for which that compensation is paid. This foundational data is necessary to inform the legislature's decisions.

NEW SECTION. **Sec. 2.** EDUCATION FUNDING TASK FORCE ESTABLISHED. (1) The education funding task force is established to continue the work of the governor's informal work group to review the data and analysis provided by the consultant retained under section 3 of this act and must make recommendations to the legislature on implementing the program of basic education as defined in statute.

(2) Using the data and analysis provided by the consultant and the previous body of work provided to the legislature, the task force must, at a minimum, make recommendations for compensation that is sufficient to hire and retain the staff funded under the statutory prototypical school funding model and an associated salary allocation model. The recommendations must also include provisions indicating whether:

(a) A system for future salary adjustments should be incorporated into the salary allocation model and if so, the method for providing the adjustment; and

(b) A local labor market adjustment formula should be incorporated into the salary allocation model and if so, the method for providing the adjustment. This must include considerations for rural and remote districts and districts with economic and distressing factors that affect recruitment and retention.

(3) The task force must review available information to determine whether additional state legislation is needed to help school districts to support state-funded all-day kindergarten and class size reduction in kindergarten through third grade.

(4) The task force must review the report on addressing the problem of teacher shortages prepared by the professional educator standards board. The task force must make recommendations for improving or expanding existing educator recruitment and retention programs.

(5) The task force must also make recommendations regarding:

(a) Local maintenance and operation levies and local effort assistance;

(b) Local school district collective bargaining;

(c) Clarifying the distinction between services provided as part of the state's statutory program of basic education and services that may be provided as local enrichment;

(d) Required district reporting, accounting, and transparency of data and expenditures;

(e) The provision and funding method for school employee health benefits; and

(f) Sources of state revenue to support the state's statutory program of basic education.

(6) The task force consists of the following members:

(a) Eight legislators, with two members from each of the two largest caucuses of the senate appointed by the leaders of each of the two largest caucuses of the senate, and two members from each of the two largest caucuses of the house of representatives appointed by the speaker of the house of representatives; and

(b) The governor or the governor's designee as a nonvoting member to serve as facilitator.

(7) Recommendations of the task force require the affirmative vote of five of its members.

(8) Staff support for the task force must be provided by the house of representatives office of program research and senate committee services, with additional staff support provided by the office of financial management.

(9) Meetings of the task force shall comply with Joint Rule 10, Senate Rule 45, and House of Representatives Rule 24.

(10) 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.

(11) The task force recommendations and any supporting legislation must be submitted to the legislature by January 9, 2017.

NEW SECTION. **Sec. 3.** ANALYSIS OF K-12 PUBLIC SCHOOL STAFF COMPENSATION. (1) In consultation with the education funding task force established in section 2 of this act, the Washington state institute for public policy shall contract for independent professional consulting services to:

(a) Collect K-12 public school staff total compensation data, and within that data, provide an analysis of compensation paid in addition to basic education salary allocations under the statutory prototypical school model, source of funding, and the duties, uses, or categories for which that compensation is paid;

(b) Identify market rate salaries that are comparable to each of the staff types in the prototypical school funding model; and

(c) Provide analysis regarding whether a local labor market adjustment formula should be implemented and if so which market adjustment factors and methods should be used.

(2) The superintendent of public instruction must collect, and school districts and other applicable local education agencies must provide, compensation data necessary to implement this section with sufficient time for the consultant to accomplish the work required by this section. Data must be in the format necessary to meet the needs of the consultant. The superintendent of public instruction must provide this information to the Washington state institute for public policy, the office of financial management, and the education funding task force, for use by the consultant and the task force.

(3) The consultant must provide an interim report to the education funding task force and the governor by September 1, 2016.

(4) The consultant's final data and analysis must be provided to the education funding task force and the governor by November 15, 2016.

NEW SECTION. **Sec. 4.** LOCAL LEVIES—LEGISLATIVE ACTION. Legislative action shall be taken by the end of the 2017 session to eliminate school district dependency on local levies for implementation of the state's program of basic education.

NEW SECTION. **Sec. 5.** APPROPRIATIONS. (1) The sum of two hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2016, from the general fund to The Evergreen State College to fund the Washington state institute for public policy contract with independent professional consulting services as required in section 3 of this act.

(2) The sum of two hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2017, from

the general fund to The Evergreen State College to fund the Washington state institute for public policy contract with independent professional consulting services as required in section 3 of this act.

NEW SECTION. **Sec. 6.** EXPIRATION DATE. This act expires June 30, 2017.

NEW SECTION. **Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate February 16, 2016.
Passed by the House February 18, 2016.
Approved by the Governor February 29, 2016.
Filed in Office of Secretary of State February 29, 2016.

CHAPTER 4

[Senate Bill 5342]

HUMAN TRAFFICKING--FORCED LABOR--DEFINITIONS

AN ACT Relating to human trafficking definitions; and amending RCW 19.320.010.

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

Sec. 1. RCW 19.320.010 and 2010 c 142 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) "Any person" means adults and children of any nationality.

(2) "Domestic employers of foreign workers" or "domestic employer" means a person or persons residing in the state of Washington who recruit or employ a foreign worker to perform work in Washington state.

((~~(2)~~))(3) "Forced labor" means all work or service which is exacted from any person under the menace of any penalty and to which the person has not offered himself or herself voluntarily.

(4) "Foreign worker" or "worker" means a person who is not a citizen of the United States, who comes to Washington state based on an offer of employment, and who holds a nonimmigrant visa for temporary visitors.

((~~(3)~~))(5) "Human trafficking" or "trafficking" means an act conducted for the purpose of exploitation, including forced labor, by particular means, for example threat of use of force or other forms of coercion, abduction, fraud or deception, abuse of power, or abuse of position of vulnerability.

(6) "International labor recruitment agency" means a corporation, partnership, business, or other legal entity, whether or not organized under the laws of the United States or any state, that does business in the United States and offers Washington state entities engaged in the employment or recruitment of foreign workers, employment referral services involving citizens of a foreign country or countries by acting as an intermediary between these foreign workers and Washington employers.

(7) "Menace of any penalty" means all forms of criminal sanctions and other forms of coercion, including threats, violence, retention of identity documents, confinement, nonpayment or illegal deduction of wages, or debt bondage.

(8) "Work or service" means all types of work, employment, or occupation, whether legal or not.

Passed by the Senate February 5, 2016.
Passed by the House March 2, 2016.
Approved by the Governor March 10, 2016.
Filed in Office of Secretary of State March 11, 2016.

CHAPTER 5

[Substitute Senate Bill 5864]

SALES AND USE TAX--MUNICIPAL SERVICES IN NEWLY ANNEXED AREAS

AN ACT Relating to sales and use tax for cities to offset municipal service costs to newly annexed areas; and amending RCW 82.14.415.

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

Sec. 1. RCW 82.14.415 and 2011 c 353 s 10 are each amended to read as follows:

(1) The legislative authority of any city that is located in a county with a population greater than six hundred thousand that annexes an area consistent with its comprehensive plan required by chapter 36.70A RCW may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and is collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the city. The tax may only be imposed by a city if:

(a) The city has commenced annexation of an area having a population of at least ten thousand people, or four thousand in the case of a city described under subsection (3)(a)(i) of this section, prior to January 1, 2015; and

(b) The city legislative authority determines by resolution or ordinance that the projected cost to provide municipal services to the annexation area exceeds the projected general revenue that the city would otherwise receive from the annexation area on an annual basis.

(2) The tax authorized under this section is a credit against the state tax under chapter 82.08 or 82.12 RCW. The department of revenue must perform the collection of such taxes on behalf of the city at no cost to the city and must remit the tax to the city as provided in RCW 82.14.060.

(3)(a) Except as provided in (b) of this subsection, the maximum rate of tax any city may impose under this section is:

(i) 0.1 percent for each annexed area in which the population is greater than ten thousand and less than twenty thousand. The ten thousand population threshold in this subsection (3)(a)(i) is four thousand for a city with a population between one hundred fifteen thousand and one hundred forty thousand and located within a county with a population over one million five hundred thousand; and

(ii) 0.2 percent for an annexed area in which the population is greater than twenty thousand.

(b) Beginning July 1, 2011, the maximum rate of tax imposed under this section is 0.85 percent for an annexed area in which the population is greater than sixteen thousand if the annexed area was, prior to November 1, 2008,

officially designated as a potential annexation area by more than one city, one of which has a population greater than four hundred thousand.

(4)(a) Except as provided in (b) of this subsection, the maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.2 percent for the total number of annexed areas the city may annex.

(b) The maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.3 percent, beginning July 1, 2011, if the city commenced annexation of an area, prior to January 1, 2010, that would have otherwise allowed the city to increase the rate of tax imposed under this section absent the rate limit imposed in (a) of this subsection.

(c) The maximum cumulative rate of tax a city may impose under subsection (3)(b) of this section is 0.85 percent for the single annexed area the city may annex and the amount of tax distributed to a city under subsection (3)(b) of this section may not exceed ((~~five million~~)) seven million seven hundred twenty-five thousand dollars per fiscal year.

(5)(a) Except as provided in (b) of this subsection, the tax imposed by this section may only be imposed at the beginning of a fiscal year and may continue for no more than ten years from the date that each increment of the tax is first imposed. Tax rate increases due to additional annexed areas are effective on July 1st of the fiscal year following the fiscal year in which the annexation occurred, provided that notice is given to the department as set forth in subsection (9) of this section.

(b) The tax imposed under subsection (3)(b) of this section may only be imposed at the beginning of a fiscal year and may continue for no more than six years from the date that each increment of the tax is first imposed.

(6) All revenue collected under this section may be used solely to provide, maintain, and operate municipal services for the annexation area.

(7) The revenues from the tax authorized in this section may not exceed that which the city deems necessary to generate revenue equal to the difference between the city's cost to provide, maintain, and operate municipal services for the annexation area and the general revenues that the cities would otherwise expect to receive from the annexation during a year. If the revenues from the tax authorized in this section and the revenues from the annexation area exceed the costs to the city to provide, maintain, and operate municipal services for the annexation area during a given year, the city must notify the department and the tax distributions authorized in this section must be suspended for the remainder of the year.

(8) No tax may be imposed under this section before July 1, 2007. Before imposing a tax under this section, the legislative authority of a city must adopt an ordinance that includes the following:

(a) A certification that the amount needed to provide municipal services to the annexed area reflects the city's true and actual costs;

(b) The rate of tax under this section that is imposed within the city; and

(c) The threshold amount for the first fiscal year following the annexation and passage of the ordinance.

(9) The tax must cease to be distributed to the city for the remainder of the fiscal year once the threshold amount has been reached. No later than March 1st of each year, the city must provide the department with a certification of the city's true and actual costs to provide municipal services to the annexed area, a

new threshold amount for the next fiscal year, and notice of any applicable tax rate changes. Distributions of tax under this section must begin again on July 1st of the next fiscal year and continue until the new threshold amount has been reached or June 30th, whichever is sooner. Any revenue generated by the tax in excess of the threshold amount belongs to the state of Washington. Any amount resulting from the threshold amount less the total fiscal year distributions, as of June 30th, may not be carried forward to the next fiscal year.

(10) The tax must cease to be distributed to a city imposing the tax under subsection (3)(b) of this section for the remainder of the fiscal year, if the total distributions to the city imposing the tax exceed ((~~five million~~)) seven million seven hundred twenty-five thousand dollars for the fiscal year. A city may not impose tax under subsection (3)(b) of this section unless the annexation is approved by a vote of the people residing within the annexed area. A city may not impose tax under subsection (3)(b) of this section if it provides sewer service in the annexed area.

(11) The resident population of the annexation area must be determined in accordance with chapter 35.13 or 35A.14 RCW.

(12) The following definitions apply throughout this section unless the context clearly requires otherwise:

(a) "Annexation area" means an area that has been annexed to a city under chapter 35.13 or 35A.14 RCW. "Annexation area" includes all territory described in the city resolution.

(b) "Commenced annexation" means the initiation of annexation proceedings has taken place under the direct petition method or the election method under chapter 35.13 or 35A.14 RCW.

(c) "Department" means the department of revenue.

(d) "Municipal services" means those services customarily provided to the public by city government.

(e) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(f) "Potential annexation area" means one or more geographic areas that a city has officially designated for potential future annexation, as part of its comprehensive plan adoption process under the state growth management act, chapter 36.70A RCW.

(g) "Threshold amount" means the maximum amount of tax distributions as determined by the city in accordance with subsection (7) of this section that the department must distribute to the city generated from the tax imposed under this section in a fiscal year.

Passed by the Senate January 27, 2016.
Passed by the House March 1, 2016.
Approved by the Governor March 10, 2016.
Filed in Office of Secretary of State March 11, 2016.

CHAPTER 6

[Substitute Senate Bill 6219]

VEHICULAR HOMICIDE BY RECKLESSNESS--SENTENCING SERIOUSNESS LEVEL

AN ACT Relating to sentencing for vehicular homicide; and amending RCW 9.94A.515 and 9.94A.535.

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

Sec. 1. RCW 9.94A.515 and 2015 c 261 s 11 are each 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(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)
	<u>Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)</u>
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 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. 2. RCW 9.94A.535 and 2013 2nd sp.s. c 35 s 37 are each amended to read as follows:

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

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

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

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

(1) Mitigating Circumstances - Court to Consider

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

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

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

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

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

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

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

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

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

(i) The defendant was making a good faith effort to obtain or provide medical assistance for someone who is experiencing a drug-related overdose.

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

(k) The defendant was convicted of vehicular homicide, by the operation of a vehicle in a reckless manner and has committed no other previous serious traffic offenses as defined in RCW 9.94A.030, and the sentence is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one or more of the following was present:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

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

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

(bb) The current offense involved paying to view, over the internet in violation of RCW 9.68A.075, depictions of a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (g).

(cc) The offense was intentionally committed because the defendant perceived the victim to be homeless, as defined in RCW 9.94A.030.

(dd) The current offense involved a felony crime against persons, except for assault in the third degree pursuant to RCW 9A.36.031(1)(k), that occurs in a courtroom, jury room, judge's chamber, or any waiting area or corridor immediately adjacent to a courtroom, jury room, or judge's chamber. This subsection shall apply only: (i) During the times when a courtroom, jury room, or judge's chamber is being used for judicial purposes during court proceedings; and (ii) if signage was posted in compliance with RCW 2.28.200 at the time of the offense.

(ee) During the commission of the current offense, the defendant 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.

Passed by the Senate February 10, 2016.
Passed by the House March 2, 2016.
Approved by the Governor March 10, 2016.
Filed in Office of Secretary of State March 11, 2016.

CHAPTER 7

[Senate Bill 6282]

MORTGAGE LENDING FRAUD PROSECUTION ACCOUNT--EXPIRATION DATE

AN ACT Relating to the mortgage lending fraud prosecution account; amending RCW 43.320.140 and 36.22.181; and providing expiration dates.

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

Sec. 1. RCW 43.320.140 and 2011 c 129 s 1 are each amended to read as follows:

(1) The mortgage lending fraud prosecution account is created in the custody of the state treasurer. All receipts from the surcharge imposed in RCW 36.22.181, except those retained by the county auditor for administration, must be deposited into the account. Except as otherwise provided in this section, expenditures from the account may be used only for criminal prosecution of fraudulent activities related to mortgage lending fraud crimes. Only the director of the department of financial institutions or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) This section expires June 30, ((~~2016~~)) 2021.

Sec. 2. RCW 36.22.181 and 2011 c 129 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a surcharge of one dollar shall be charged by the county auditor at the time of recording of each deed of trust, which will be in addition to any other charge authorized by law. The auditor may retain up to five percent of the funds collected to administer collection. The remaining funds shall be transmitted monthly to the state treasurer who will deposit the funds into the mortgage lending fraud prosecution account created in RCW 43.320.140. The department of financial institutions is responsible for the distribution of the funds in the account and shall, in consultation with the attorney general and local prosecutors, develop rules for

the use of these funds to pursue criminal prosecution of fraudulent activities within the mortgage lending process.

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

(3) This section expires June 30, ((~~2016~~)) 2021.

Passed by the Senate February 11, 2016.
Passed by the House March 1, 2016.
Approved by the Governor March 10, 2016.
Filed in Office of Secretary of State March 11, 2016.

CHAPTER 8

[Substitute Senate Bill 6286]

CORRECTIONAL EMPLOYEE REIMBURSEMENTS FOR OFFENDER ASSAULTS--DURATION

AN ACT Relating to reimbursement of correctional employees for offender assaults; and amending RCW 72.09.240.

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

Sec. 1. RCW 72.09.240 and 2002 c 77 s 2 are each amended to read as follows:

(1) In recognition of prison overcrowding and the hazardous nature of employment in state correctional institutions and offices, the legislature hereby provides a supplementary program to reimburse employees of the department of corrections and the department of natural resources for some of their costs attributable to their being the victims of offender assaults. This program shall be limited to the reimbursement provided in this section.

(2) An employee is only entitled to receive the reimbursement provided in this section if the secretary of corrections or the commissioner of public lands, or the secretary's or commissioner's designee, finds that each of the following has occurred:

(a) An offender has assaulted the employee while the employee is performing the employee's official duties and as a result thereof the employee has sustained injuries which have required the employee to miss days of work; and

(b) The assault cannot be attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment.

(3) The reimbursement authorized under this section shall be as follows:

(a) The employee's accumulated sick leave days shall not be reduced for the workdays missed;

(b) For each workday missed for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay; and

(c) In respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, the employee shall be reimbursed in an amount which, when added to that compensation, will result in the employee receiving full pay for the workdays missed.

(4) Reimbursement under this section may not ((~~last~~)) continue longer than three hundred sixty-five consecutive days after the date of the injury or the date of termination of time loss benefits related to the assault by the department of labor and industries, whichever is later.

(5) The employee shall not be entitled to the reimbursement provided in subsection (3) of this section for any workday for which the secretary or the commissioner of public lands, or the secretary's or commissioner's designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(6) The reimbursement shall only be made for absences which the secretary or the commissioner of public lands, or the secretary's or commissioner's designee, believes are justified.

(7) While the employee is receiving reimbursement under this section, he or she shall continue to be classified as a state employee and the reimbursement amount shall be considered as salary or wages.

(8) All reimbursement payments required to be made to employees under this section shall be made by the department of corrections or the department of natural resources. The payments shall be considered as a salary or wage expense and shall be paid by the department of corrections or the department of natural resources in the same manner and from the same appropriations as other salary and wage expenses of the department of corrections or the department of natural resources.

(9) Should the legislature revoke the reimbursement authorized under this section or repeal this section, no affected employee is entitled thereafter to receive the reimbursement as a matter of contractual right.

(10) For the purposes of this section, "offender" means: (a) Offender as defined in RCW 9.94A.030; and (b) any other person in the custody of or subject to the jurisdiction of the department of corrections.

Passed by the Senate February 16, 2016.
Passed by the House March 2, 2016.
Approved by the Governor March 10, 2016.
Filed in Office of Secretary of State March 11, 2016.

CHAPTER 9

[Senate Bill 6376]

HUMAN TRAFFICKING AWARENESS DAY

AN ACT Relating to recognizing human trafficking awareness day; reenacting and amending RCW 1.16.050; and creating a new section.

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that:

(a) Human trafficking is a horrendous crime and activity in which force, fraud, or coercion is used to force adults into labor or commercial sexual exploitation, or force children and youth into child commercial sexual exploitation;

(b) In 2002, Washington was the first state in the United States to create a state antitrafficking of persons task force; safety measures for noncitizen, nonresident persons recruited by international matchmaking organizations for

the purpose of providing dating, matrimonial, or social referral services; and a definition of human trafficking crimes at the state level;

(c) In 2003, Washington was the first state to enact a state crime of human trafficking;

(d) In 2004, an advisory committee on trafficking was convened by the United States attorney's office for the Western district of Washington, creating a multidisciplinary team to collaborate locally, nationally, and internationally;

(e) According to the Washington state attorney general's office, fifty-five percent of global internet child pornography is initiated in the United States, with the child victims often being runaways, troubled, or homeless youth;

(f) The Washington anti-trafficking response network reports that they have seen cases of young men and boys exploited in the construction industry, and immigrants and others exploited by restaurants, small businesses, agriculture, and the commercial sex industry; and

(g) The Washington state legislature enacted forty antitrafficking laws between 2002 and 2015, and has been recognized by shared hope international and the polaris project as being among the very top states in the country for antitrafficking advocacy and legislation.

(2) The legislature intends to recognize and honor Washington state's efforts to reduce human trafficking by designating the eleventh day of January in each year as "human trafficking awareness day."

Sec. 2. RCW 1.16.050 and 2014 c 177 s 2 and 2014 c 168 s 1 are each reenacted and amended to read as follows:

(1) The following are state legal holidays:

(a) Sunday;

(b) The first day of January, commonly called New Year's Day;

(c) The third Monday of January, celebrated as the anniversary of the birth of Martin Luther King, Jr.;

(d) The third Monday of February, to be known as Presidents' Day and celebrated as the anniversary of the births of Abraham Lincoln and George Washington;

(e) The last Monday of May, commonly known as Memorial Day;

(f) The fourth day of July, the anniversary of the Declaration of Independence;

(g) The first Monday in September, to be known as Labor Day;

(h) The eleventh day of November, to be known as Veterans' Day;

(i) The fourth Thursday in November, to be known as Thanksgiving Day;

(j) The Friday immediately following the fourth Thursday in November, to be known as Native American Heritage Day; and

(k) The twenty-fifth day of December, commonly called Christmas Day.

(2) Employees of the state and its political subdivisions, except employees of school districts and except those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, are entitled to one paid holiday per calendar year in addition to those specified in this section. Each employee of the state or its political subdivisions may select the day on which the employee desires to take the additional holiday provided for in this section after consultation with the employer pursuant to guidelines to be

promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority.

(3) Employees of the state and its political subdivisions, including employees of school districts and those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, are entitled to two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization. This includes employees of public institutions of higher education, including community colleges, technical colleges, and workforce training programs. The employee may select the days on which the employee desires to take the two unpaid holidays after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority. If an employee prefers to take the two unpaid holidays on specific days for a reason of faith or conscience, or an organized activity conducted under the auspices of a religious denomination, church, or religious organization, the employer must allow the employee to do so unless the employee's absence would impose an undue hardship on the employer or the employee is necessary to maintain public safety. Undue hardship shall have the meaning established in rule by the office of financial management under RCW 43.41.109.

(4) If any of the state legal holidays specified in this section are also federal legal holidays but observed on different dates, only the state legal holidays are recognized as a paid legal holiday for employees of the state and its political subdivisions. However, for port districts and the law enforcement and public transit employees of municipal corporations, either the federal or the state legal holiday is recognized as a paid legal holiday, but in no case may both holidays be recognized as a paid legal holiday for employees.

(5) Whenever any state legal holiday:

(a) Other than Sunday, falls upon a Sunday, the following Monday is the legal holiday; or

(b) Falls upon a Saturday, the preceding Friday is the legal holiday.

(6) Nothing in this section may be construed to have the effect of adding or deleting the number of paid holidays provided for in an agreement between employees and employers of political subdivisions of the state or as established by ordinance or resolution of the local government legislative authority.

(7) The legislature declares that the following days are recognized as provided in this subsection, but may not be considered legal holidays for any purpose:

(a) The thirteenth day of January, recognized as Korean-American day;

(b) The twelfth day of October, recognized as Columbus day;

(c) The ninth day of April, recognized as former prisoner of war recognition day;

(d) The twenty-sixth day of January, recognized as Washington army and air national guard day;

(e) The seventh day of August, recognized as purple heart recipient recognition day;

(f) The second Sunday in October, recognized as Washington state children's day;

(g) The sixteenth day of April, recognized as Mother Joseph day;

(h) The fourth day of September, recognized as Marcus Whitman day;

(i) The seventh day of December, recognized as Pearl Harbor remembrance day;

(j) The twenty-seventh day of July, recognized as national Korean war veterans armistice day;

(k) The nineteenth day of February, recognized as civil liberties day of remembrance;

(l) The nineteenth day of June, recognized as Juneteenth, a day of remembrance for the day the slaves learned of their freedom; ((~~and~~))

(m) The thirtieth day of March, recognized as welcome home Vietnam veterans day; and

(n) The eleventh day of January, recognized as human trafficking awareness day.

Passed by the Senate February 16, 2016.
Passed by the House March 1, 2016.
Approved by the Governor March 10, 2016.
Filed in Office of Secretary of State March 11, 2016.

CHAPTER 10

[Substitute Senate Bill 6421]

EPINEPHRINE AUTOINJECTORS--PRESCRIBING TO CERTAIN ENTITIES

AN ACT Relating to authorized health care providers prescribing epinephrine autoinjectors in the name of authorized entities; and adding a new section to chapter 70.54 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 70.54 RCW to read as follows:

(1) An authorized health care provider may prescribe epinephrine autoinjectors in the name of an authorized entity for use in accordance with this section, and pharmacists, advanced registered nurse practitioners, and physicians may dispense epinephrine autoinjectors pursuant to a prescription issued in the name of an authorized entity.

(2) An authorized entity may acquire and stock a supply of epinephrine autoinjectors pursuant to a prescription issued in accordance with this section. The epinephrine autoinjectors must be stored in a location readily accessible in an emergency and in accordance with the epinephrine autoinjector's instructions for use and any additional requirements that may be established by the department of health. An authorized entity shall designate employees or agents who have completed the training required by subsection (4) of this section to be responsible for the storage, maintenance, and general oversight of epinephrine autoinjectors acquired by the authorized entity.

(3) An employee or agent of an authorized entity, or other individual, who has completed the training required by subsection (4) of this section may, on the premises of or in connection with the authorized entity, use epinephrine autoinjectors prescribed pursuant to subsection (1) of this section to:

(a) Provide an epinephrine autoinjector to any individual who the employee, agent, or other individual believes in good faith is experiencing anaphylaxis for immediate self-administration, regardless of whether the individual has a prescription for an epinephrine autoinjector or has previously been diagnosed with an allergy.

(b) Administer an epinephrine autoinjector to any individual who the employee, agent, or other individual believes in good faith is experiencing anaphylaxis, regardless of whether the individual has a prescription for an epinephrine autoinjector or has previously been diagnosed with an allergy.

(4)(a) An employee, agent, or other individual described in subsection (3) of this section must complete an anaphylaxis training program prior to providing or administering an epinephrine autoinjector made available by an authorized entity. The training must be conducted by a nationally recognized organization experienced in training laypersons in emergency health treatment or an entity or individual approved by the department of health. Training may be conducted online or in person and, at a minimum, must cover:

(i) Techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis;

(ii) Standards and procedures for the storage and administration of an epinephrine autoinjector; and

(iii) Emergency follow-up procedures.

(b) The entity that conducts the training shall issue a certificate, on a form developed or approved by the department of health, to each person who successfully completes the anaphylaxis training program.

(5) An authorized entity that possesses and makes available epinephrine autoinjectors and its employees, agents, and other trained individuals; an authorized health care provider that prescribes epinephrine autoinjectors to an authorized entity; and an individual or entity that conducts the training described in subsection (4) of this section is not liable for any injuries or related damages that result from the administration or self-administration of an epinephrine autoinjector, the failure to administer an epinephrine autoinjector, or any other act or omission taken pursuant to this section: PROVIDED, However, this immunity does not apply to acts or omissions constituting gross negligence or willful or wanton misconduct. The administration of an epinephrine autoinjector in accordance with this section is not the practice of medicine. This section does not eliminate, limit, or reduce any other immunity or defense that may be available under state law, including that provided under RCW 4.24.300. An entity located in this state is not liable for any injuries or related damages that result from the provision or administration of an epinephrine autoinjector by its employees or agents outside of this state if the entity or its employee or agent (a) would not have been liable for the injuries or related damages had the provision or administration occurred within this state, or (b) are not liable for the injuries or related damages under the law of the state in which the provision or administration occurred.

(6) An authorized entity that possesses and makes available epinephrine autoinjectors shall submit to the department of health, on a form developed by the department of health, a report of each incident on the authorized entity's premises that involves the administration of the authorized entity's epinephrine

autoinjector. The department of health shall annually publish a report that summarizes and analyzes all reports submitted to it under this subsection.

(7) As used in this section:

(a) "Administer" means the direct application of an epinephrine autoinjector to the body of an individual.

(b) "Authorized entity" means any entity or organization at or in connection with which allergens capable of causing anaphylaxis may be present, including, but not limited to, restaurants, recreation camps, youth sports leagues, amusement parks, colleges, universities, and sports arenas.

(c) "Authorized health care provider" means an individual allowed by law to prescribe and administer prescription drugs in the course of professional practice.

(d) "Epinephrine autoinjector" means a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body.

(e) "Provide" means the supply of one or more epinephrine autoinjectors to an individual.

(f) "Self-administration" means a person's discretionary use of an epinephrine autoinjector.

Passed by the Senate February 15, 2016.
Passed by the House March 2, 2016.
Approved by the Governor March 10, 2016.
Filed in Office of Secretary of State March 11, 2016.

CHAPTER 11

[Substitute Senate Bill 6463]

LURING MINOR OR PERSON WITH DEVELOPMENTAL DISABILITY--INTENT REQUIREMENT

AN ACT Relating to luring; amending RCW 9A.40.090; and prescribing penalties.

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

Sec. 1. RCW 9A.40.090 and 2012 c 145 s 1 are each amended to read as follows:

(1) A person commits the crime of luring if the person, with the intent to harm the health, safety, or welfare of the minor or person with a developmental disability or with the intent to facilitate the commission of any crime:

((~~(1)~~))(a) Orders, lures, or attempts to lure a minor or a person with a developmental disability into any area or structure that is obscured from or inaccessible to the public, or away from any area or structure constituting a bus terminal, airport terminal, or other transportation terminal, or into a motor vehicle;

(b) Does not have the consent of the minor's parent or guardian or of the guardian of the person with a developmental disability; and

(c) Is unknown to the child or developmentally disabled person.

(2) ((~~It is a defense to luring, which the defendant must prove by a preponderance of the evidence, that the defendant's actions were reasonable under the circumstances and the defendant did not have any intent to harm the health, safety, or welfare of the minor or the person with the developmental disability.~~

~~(3)~~)) For purposes of this section:

(a) "Minor" means a person under the age of sixteen;

(b) "Person with a developmental disability" means a person with a developmental disability as defined in RCW 71A.10.020.

(((~~(4)~~))) (3) Luring is a class C felony.

Passed by the Senate February 12, 2016.
Passed by the House March 2, 2016.
Approved by the Governor March 10, 2016.
Filed in Office of Secretary of State March 11, 2016.

CHAPTER 12

[Senate Bill 6202]

NATIONAL GUARD STATE ACTIVE DUTY--EMPLOYMENT RIGHTS

AN ACT Relating to the enforcement of employment rights arising from state active duty service by a member of the national guard; and amending RCW 73.16.061.

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

Sec. 1. RCW 73.16.061 and 2013 c 23 s 190 are each amended to read as follows:

(1) ((~~In case~~)) If any employer, ((~~his or her~~)) or any employer's successor or successors, fails or refuses to comply with the provisions of RCW 73.16.031 through 73.16.061 and 73.16.090, the attorney general ((~~shall~~)) must bring action in the superior court in the county in which the employer is located or does business to obtain an order to specifically require such employer to comply with the provisions of this chapter, and, as an incident thereto, to compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful act if:

(a) The service in question was state duty not covered by the uniformed services employment and reemployment rights act of 1994, P.L. 103-353 (38 U.S.C. Sec. 4301 et seq.); and

(b) The ((~~employer support for guard and reserve ombuds~~)) adjutant general of the Washington state military department, or his or her designee, has inquired ((~~in~~)) with the employer regarding the matter and has been unable to resolve it.

(2) If the conditions in subsection (1)(a) and (b) of this section are met, any such person who does not desire the services of the attorney general may, by private counsel, bring such action.

Passed by the Senate February 11, 2016.
Passed by the House March 1, 2016.
Approved by the Governor March 10, 2016.
Filed in Office of Secretary of State March 11, 2016.

CHAPTER 13

[Substitute Senate Bill 6295]

CORONER'S INQUESTS--VENUE--PAYMENT OF COSTS

AN ACT Relating to clarifying the venue in which coroner's inquests are to be convened and payment of related costs; and amending RCW 36.24.020.

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

Sec. 1. RCW 36.24.020 and 2009 c 549 s 4032 are each amended to read as follows:

Any coroner, in his or her discretion, may hold an inquest if the coroner suspects that the death of a person was unnatural, or violent, or resulted from unlawful means, or from suspicious circumstances, or was of such a nature as to indicate the possibility of death by the hand of the deceased or through the instrumentality of some other person: PROVIDED, That, except under suspicious circumstances, no inquest shall be held following a traffic death.

The coroner in the county where an inquest is to be convened pursuant to this chapter shall notify the superior court to provide persons to serve as a jury of inquest to hear all the evidence concerning the death and to inquire into and render a true verdict on the cause of death. Jurors shall be selected and summoned in the same manner and shall have the same qualifications as specified in chapter 2.36 RCW.

At the coroner's request, the superior court shall schedule a courtroom in which the inquest may be convened, a bailiff, reporter, and any security deemed reasonably necessary by the coroner. The coroner and the superior court shall set an inquest date by mutual agreement. The inquest shall take place within eighteen months of the coroner's request to the court. If the superior court cannot accommodate the inquest for good cause shown, the court may designate a comparable public venue for the inquest in the county.

If the superior court is unable to provide a courtroom or comparable public venue, it shall certify courtroom unavailability in writing within sixty days of the coroner's request and the inquest shall be scheduled and transferred to another county within one hundred miles of the requesting county.

The prosecuting attorney having jurisdiction shall be notified in advance of any such inquest to be held, and at his or her discretion may be present at and assist the coroner in the conduct of the same. The coroner may adjourn the inquest from time to time as he or she may deem necessary.

The costs of inquests, including any costs incurred by the superior court, shall be borne by the county in which the inquest is ((~~held~~)) requested. When an inquest is transferred to another county due to unavailability of a courtroom, the county from which such inquest is transferred shall pay the county in which the inquest is held all costs accrued for per diem and mileage for jurors and witnesses and all other costs properly charged to the transferring county.

Passed by the Senate February 12, 2016.
Passed by the House March 1, 2016.
Approved by the Governor March 10, 2016.
Filed in Office of Secretary of State March 11, 2016.

CHAPTER 14

[Engrossed Substitute House Bill 2524]
TRANSPORTATION BUDGET--SUPPLEMENTAL

AN ACT Relating to transportation funding and appropriations; amending RCW 81.53.281; amending 2015 1st sp.s. c 10 ss 101, 102, 103, 105, 106, 107, 201-211, 213-223, 301-311, 401-407, and 601 (uncodified); amending 2015 3rd sp.s. c 43 ss 502 and 606 (uncodified); amending 2015 3rd sp.s. c 4 ss 728-735 (uncodified); adding new sections to 2015 1st sp.s. c 10 (uncodified); repealing 2015 3rd sp.s. c 43 ss 201-207, 301-309, and 401 (uncodified); making appropriations and authorizing expenditures for capital improvements; and declaring an emergency.

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

2015-2017 FISCAL BIENNIUM

GENERAL GOVERNMENT AGENCIES—OPERATING

Sec. 101. 2015 1st sp.s. c 10 s 101 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Motor Vehicle Account—State Appropriation . . . . . ((~~$476,000~~)) $488,000

Sec. 102. 2015 1st sp.s. c 10 s 102 (uncodified) is amended to read as follows:

FOR THE UTILITIES AND TRANSPORTATION COMMISSION

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

Sec. 103. 2015 1st sp.s. c 10 s 103 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

Motor Vehicle Account—State Appropriation . . . . . ((~~$2,268,000~~)) $2,296,000

Puget Sound Ferry Operations Account—State Appropriation. . . . . ((~~$110,000~~)) $115,000

State Patrol Highway Account—State Appropriation $150,000

TOTAL APPROPRIATION . . . . . ((~~$2,378,000~~)) $2,561,000

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

(((~~(2)~~))) (1) $835,000 of the motor vehicle account—state appropriation is provided solely for the office of financial management, from amounts set aside out of statewide fuel taxes distributed to counties according to RCW 46.68.120(3), to contract with the Washington state association of counties to develop, implement, and report on transportation metrics associated with transportation system policy goals outlined in RCW 47.04.280. The Washington state association of counties, in cooperation with state agencies, must: Evaluate and implement opportunities to streamline reporting of county transportation financial data; expand reporting and collection of short-span bridge and culvert data; evaluate and report on the impact of increased freight and rail traffic on county roads; and to evaluate, implement, and report on the opportunities for improved capital project management and delivery.

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

31, 2016, on the implementation of developed voluntary programmatic agreements.

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

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

Sec. 104. 2015 1st sp.s. c 10 s 105 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

Motor Vehicle Account—State Appropriation . . . . . ((~~$1,212,000~~)) $1,240,000

Sec. 105. 2015 1st sp.s. c 10 s 106 (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

Motor Vehicle Account—State Appropriation . . . . . ((~~$563,000~~)) $582,000

Sec. 106. 2015 1st sp.s. c 10 s 107 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Motor Vehicle Account—State Appropriation $300,000

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

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

(2) $300,000 of the motor vehicle account—state appropriation is provided solely for the department to implement activities of the fish passage barrier removal board created in RCW 77.95.160. The department must coordinate with cities and counties to inventory and undertake predesign and scoping activities associated with fish passage barrier corrections on city streets and county roads. The department must work with the department of ecology to provide a combined report to the transportation committees of the legislature on the board's activities and accomplishments and the activities funded in section 108 of this act by June 30, 2017. $170,000 is provided from the cities' statewide fuel tax distributions under RCW 46.68.110(2) and $130,000 is provided from the counties' statewide fuel tax distributions under RCW 46.68.120(3).

NEW SECTION. **Sec. 107.** A new section is added to 2015 1st sp.s. c 10 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ENTERPRISE SERVICES

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

NEW SECTION. **Sec. 108.** A new section is added to 2015 1st sp.s. c 10 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Motor Vehicle Account—State Appropriation $131,000

The appropriation in this section is subject to the following conditions and limitations: $131,000 of the motor vehicle account—state appropriation from cities' statewide fuel tax distributions under RCW 46.68.110(2) is provided solely for the department to develop a framework with the department of transportation and the department of fish and wildlife for correcting fish passage barriers on city streets as compensatory mitigation for environmental impacts of transportation projects, as required in RCW 77.95.185(2)(a). In addition, the department must develop and implement an umbrella statewide in lieu fee program or other formal means to provide a streamlined mechanism to undertake priority local fish passage barrier corrections, as required in RCW 77.95.185(2)(c). The department must work with the department of fish and wildlife to provide a combined report to the transportation committees of the legislature on the implementation of the program, the mechanism implemented to prioritize fish passage barrier corrections, and the activities funded in section 106(2) of this act by June 30, 2017.

NEW SECTION. **Sec. 109.** A new section is added to 2015 1st sp.s. c 10 (uncodified) to read as follows:

FOR THE EVERGREEN STATE COLLEGE

Motor Vehicle Account—State Appropriation $100,000

The appropriation in this section is subject to the following conditions and limitations: $100,000 of the motor vehicle account—state appropriation is provided solely to the Washington state institute for public policy for a cost-benefit analysis of the state's ferry vessel procurement practices as required in chapter 14, Laws of 2015 3rd sp. sess.

TRANSPORTATION AGENCIES—OPERATING

Sec. 201. 2015 1st sp.s. c 10 s 201 (uncodified) is amended to read as follows:

FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION

Highway Safety Account—State Appropriation . . . . . ((~~$3,154,000~~)) $3,183,000

Highway Safety Account—Federal Appropriation . . . . . ((~~$27,383,000~~)) $21,644,000

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

School Zone Safety Account—State Appropriation $850,000

TOTAL APPROPRIATION . . . . . ((~~$31,505,000~~)) $25,795,000

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)~~)) 243, 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.

Sec. 202. 2015 1st sp.s. c 10 s 202 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account—State Appropriation . . . . . ((~~$969,000~~))
$1,000,000

Motor Vehicle Account—State Appropriation . . . . . ((~~$2,283,000~~))
$2,459,000

County Arterial Preservation Account—State Appropriation . . . . . ((~~$1,481,000~~))
$1,518,000

TOTAL APPROPRIATION . . . . . ((~~$4,733,000~~))
$4,977,000

Sec. 203. 2015 1st sp.s. c 10 s 203 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Transportation Improvement Account—State Appropriation . . . . . ((~~$3,915,000~~))
$4,063,000

Sec. 204. 2015 1st sp.s. c 10 s 204 (uncodified) is amended to read as follows:

FOR THE JOINT TRANSPORTATION COMMITTEE

Motor Vehicle Account—State Appropriation . . . . . .((~~$1,727,000~~)) $2,222,000

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

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

(i) An overview of current attrition rates;

(ii) Options and strategies on reducing the average number of trooper positions that are vacant;

(iii) Identification of best practices for recruitment and retention of law enforcement officers;

(iv) Recommendations to improve existing recruitment and selection programs;

(v) Recommendations for where salary and benefit adjustments should be targeted to most effectively address recruitment and retention challenges;

(vi) Recommendations regarding changes to the training and education program; and

(vii) Other recommendations for cost-effective personnel strategies.

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

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

(i) Provide a high-level overview of commercial vehicle enforcement programs, with a focus on weigh stations, including both state and federal funding programs. This overview must include a description of how the Washington state patrol and department of transportation allocate these state and federal funds.

(ii) Review Washington state patrol and department of transportation planning related to weigh station location and operation, and the extent to which their efforts complement, coordinate with, or overlap each other;

(iii) Identify best practices in the funding, placement, and operation of weigh stations;

(iv) Review plans by the department of transportation and Washington state patrol to reopen a Federal Way area southbound weigh station;

(v) Recommend changes in state statutes, policy, or agency practices and rules to improve the efficiency and effectiveness of weigh station funding, placement, and operation, including potential savings to be achieved by adopting the changes; and

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

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

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

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

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

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

Sec. 205. 2015 1st sp.s. c 10 s 205 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account—State Appropriation . . . . . ((~~$2,452,000~~)) $2,667,000

Motor Vehicle Account—Federal Appropriation $500,000

Multimodal Transportation Account—State Appropriation $112,000

TOTAL APPROPRIATION . . . . . ((~~$2,564,000~~)) $3,279,000

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.

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

(b) In accordance with the rule-making authority provided under RCW 34.05.350(1)(a), the legislature deems it necessary, for preservation of the general welfare, that operational changes be made to improve the express toll lane program on Interstate 405 and that the tolling authority use its emergency rule-making authority to effect such changes in accordance with RCW 47.56.850

and 47.56.880. The legislature finds that the need for improvements to the commuter experience on the portion of Interstate 405 identified in (a) of this subsection necessitates that such action be taken in an expedited fashion. The tolling authority, with input from the department of transportation, shall evaluate the hours and days of operation for the express toll lanes and the minimum high occupancy vehicle passenger requirements for using the express toll lanes, taking into consideration the goals of: Reducing travel time on this portion of Interstate 405, including in the general purpose lanes; reducing the cost of traveling within the express toll lanes on this portion of Interstate 405; and maintaining sufficient revenue to pay for this portion of Interstate 405's express toll lane operating costs. This subsection (3) does not create a private right of action.

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

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

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

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

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

governor's office and the transportation committees of the house of representatives and the senate by November 1, 2016.

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

Sec. 206. 2015 1st sp.s. c 10 s 206 (uncodified) is amended to read as follows:

FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

Motor Vehicle Account—State Appropriation . . . . . ((~~$979,000~~))
$1,024,000

The appropriation in this section is subject to the following conditions and limitations: $250,000 of the motor vehicle account—state appropriation is provided solely to conduct a study of freight infrastructure needs, including an update of the long-term marine cargo forecast. The board must work with the Washington public ports association to evaluate: (1) Forecasted cargo movement by commodity, type, and mode of land transport; and (2) current and projected freight infrastructure capacity needs. A report on the study must be delivered to the joint transportation committee by December 1, 2015.

Sec. 207. 2015 1st sp.s. c 10 s 207 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL

State Patrol Highway Account—State
Appropriation. . . . . ((~~$407,771,000~~))
$415,364,000

State Patrol Highway Account—Federal
Appropriation. . . . . ((~~$12,779,000~~))
$13,291,000

State Patrol Highway Account—Private/Local
Appropriation. . . . . ((~~$3,631,000~~))
$3,823,000

Highway Safety Account—State Appropriation . . . . . ((~~$1,323,000~~))
$1,494,000

Multimodal Transportation Account—State
Appropriation. $276,000

TOTAL APPROPRIATION . . . . . ((~~$425,780,000~~))
$434,248,000

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))) 3, Laws of 2015 2nd sp. sess. (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.))

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

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

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

Sec. 208. 2015 1st sp.s. c 10 s 208 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING

Marine Fuel Tax Refund Account—State Appropriation. $34,000

License Plate Technology Account—State Appropriation. $3,200,000

Motorcycle Safety Education Account—State Appropriation. . . . . ((~~$4,442,000~~)) $4,488,000

State Wildlife Account—State Appropriation . . . . . ((~~$949,000~~)) $1,001,000

Highway Safety Account—State Appropriation. . . . . ((~~$183,610,000~~)) $201,666,000

Highway Safety Account—Federal Appropriation $3,573,000

Motor Vehicle Account—State Appropriation . . . . . ((~~$86,014,000~~)) $92,044,000

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~~)) $5,142,000

Department of Licensing Services Account—State
Appropriation. . . . . ((~~$6,575,000~~)) $6,672,000

TOTAL APPROPRIATION . . . . . ((~~$295,436,000~~)) $319,726,000

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

(1) ((~~$24,212,000~~)) $30,954,000 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 prorate 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)~~)) 1, Laws of 2015 ((~~or chapter . . . (Substitute Senate Bill No. 5025), Laws of 2015~~)) 2nd sp. sess. (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)~~)) 3, Laws of 2015 2nd sp. sess. (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.~~))

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

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

(11) $2,421,000 of the highway safety account—state appropriation is provided solely for costs necessary to accommodate increased demand for enhanced drivers' licenses and enhanced identicards. The office of financial management shall place the entire amount provided in this subsection in unallotted status. The office of financial management may release portions of the funds when it determines that average wait times have increased by more than two minutes based on wait time and volume data provided by the department compared to average wait times and volume during the month of December

2015. The department and the office of financial management shall evaluate the use of these funds on a monthly basis and periodically report to the transportation committees of the legislature on average wait times and volume data for enhanced drivers' licenses and enhanced identicards.

(12) $43,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Senate Bill No. 6200), Laws of 2016 (Washington's fish collection license plate). If chapter . . . (Senate Bill No. 6200), Laws of 2016 is not enacted by June 30, 2016, the amount provided in this subsection lapses.

(13) $388,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute House Bill No. 2700), Laws of 2016 (impaired driving). If chapter . . . (Engrossed Substitute House Bill No. 2700), Laws of 2016 is not enacted by June 30, 2016, the amount provided in this subsection lapses.

(14) $29,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Substitute Senate Bill No. 6254), Laws of 2016 (Purple Heart license plate). If chapter . . . (Substitute Senate Bill No. 6254), Laws of 2016 is not enacted by June 30, 2016, the amount provided in this subsection lapses.

(15) $20,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute House Bill No. 2778), Laws of 2016 (alternative fuel vehicles). If chapter . . . (Engrossed Substitute House Bill No. 2778), Laws of 2016 is not enacted by June 30, 2016, the amount provided in this subsection lapses.

Sec. 209. 2015 1st sp.s. c 10 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. . . . . ((~~$2,688,000~~)) $3,185,000

Motor Vehicle Account—State Appropriation . . . . . ((~~$503,000~~)) $510,000

State Route Number 520 Corridor Account—State Appropriation. . . . . ((~~$39,543,000~~)) $39,029,000

State Route Number 520 Civil Penalties Account—State Appropriation. . . . . ((~~$6,703,000~~)) $6,008,000

Tacoma Narrows Toll Bridge Account—State Appropriation. . . . . ((~~$25,660,000~~)) $26,636,000

Interstate 405 Express Toll Lanes Operations Account—State Appropriation . . . . . ((~~$9,931,000~~)) $15,552,000

TOTAL APPROPRIATION . . . . . ((~~$85,028,000~~)) $90,920,000

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~~)) $1,802,000 of the high occupancy toll lanes operations account—state appropriation are provided solely for the operation and maintenance of roadside toll collection systems.

(5) ((~~$6,831,000~~)) $12,202,000 of the Interstate 405 express toll lanes operations account—state appropriation is provided solely for operational costs related to the express toll lane facility, including the customer service center vendor, transponders, credit card fees, printing and postage, rent, office supplies, telephone and communications equipment, computers, and vehicle operations. Within the amount provided in this subsection, the department must, to the greatest extent possible, without adding additional tolling gantries, continue to expand the length of the access and exit points to the express toll lanes, clarify signage and striping to eliminate confusion, and make other operational and customer service improvements to enhance the public's use of the toll facility. The office of financial management shall place $5,371,000 of the amount provided in this subsection in unallotted status. The office of financial management may release funds to the department on a monthly basis beginning July 1, 2016; however, the amount to be released monthly must be calculated to address the department's projected expenditure need based on the previous

month's actual expenditures, financial statement, actual toll transaction experience, and actual revenue collections for the Interstate 405 express toll lanes facility. Prior to releasing any funding from unallotted status, the office of financial management shall notify the joint transportation committee of the amount to be released and provide the documentation used in determining the amount.

(6) $250,000 of the Interstate 405 express toll lanes operations account—state appropriation is provided solely for the identification and prioritization of projects that will help reduce congestion and provide added capacity on the Interstate 405 tolling corridor between state route number 522 and Interstate 5.

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

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

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

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

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

(8) $56,000 of the high occupancy toll lanes operations account—state appropriation, $1,124,000 of the state route number 520 corridor account—state appropriation, and $596,000 of the Tacoma Narrows toll bridge account—state appropriation are provided solely for the department to develop a request for proposal((~~s~~)) for a new tolling customer service center.

(a) The department must address the replacement of the Wave2Go ferry ticketing system that is reaching the end of its useful life by developing functional and technical requirements that integrate Washington state ferries ticketing into the new tolling division customer service center toll collection system. The department shall continue to report quarterly to the governor, legislature, and state auditor on: (((~~a~~))) (i) The department's effort to mitigate risk to the state, (((~~b~~))) (ii) the development of a request for proposal((~~s~~)), and

(((~~(c)~~))) (iii) the overall progress towards procuring a new tolling customer service center.

(b) The department shall release a request for proposal for a new tolling customer service toll collection system by December 1, 2016.

(i) During the request for proposal development process and prior to its release, the office of financial management shall review the request for proposal for a new tolling customer service toll collection system to ensure the request for proposal:

(A) Provides for the business needs of the state; and

(B) Mitigates risk to the state.

(ii) During development of the request for proposal and prior to its release, the office of the chief information officer shall review the request for proposal for a new tolling customer service toll collection system to ensure the request for proposal:

(A) Contains requirements that meet the security standards and policies of the office of the chief information officer; and

(B) Is flexible and adaptable to advances in technology.

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

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

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

(((~~(7)~~))) (9) The department shall make detailed quarterly reports to the governor and the transportation committees of the legislature on the following:

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

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

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

(((~~(8)~~))) (10) $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~~)) (11) $1,230,000 of the state route number 520 civil penalties account—state appropriation ((~~is~~)) and $695,000 of the Tacoma Narrows toll bridge account—state appropriation are provided solely to implement chapter ((~~. . . (Substitute Senate Bill No. 5481)~~)) 292, Laws of 2015 (tolling customer service reform) to improve integration between the Good to Go! electronic tolling system with the pay-by-mail system through increased communication with customers and improvements to the Good to Go! web site allowing customers to manage all of their toll accounts regardless of method of payment. Within the amounts provided, the department must include in the request for proposals for a new customer service center the requirement that the new tolling customer service center link to the vehicle records system of the department of licensing to enable vehicle record updates that relate to tolling customer accounts to occur between the two systems seamlessly. The department must work with the department of licensing to develop the appropriate specifications to include in the request for proposals to allow the new tolling customer service center to link to the vehicle records system without cost to the department of licensing and report to the transportation committees of the legislature when the appropriate specifications have been completed. By June 30, 2017, the department shall report how many people with Good to Go! accounts were issued civil penalties for each toll facility and whether the number was reduced each fiscal year in the biennium. The department shall also report on the number of customer contacts that occur, number of civil penalties reduced or waived, the amount of the total civil penalties that are waived, and the number of customers that are referred to the administrative law judge process during the biennium.

Sec. 210. 2015 1st sp.s. c 10 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 . . . . . ((~~$67,458,000~~)) $69,291,000

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~~)) $75,357,000

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

(1) $1,460,000 of the transportation partnership account—state appropriation and $1,460,000 of the transportation 2003 account (nickel account)—state appropriation are provided solely for maintaining the department's project management reporting system.

(2) $250,000 of the motor vehicle account—state appropriation is provided solely for the development of a timeline and funding plan for the labor system replacement project. As part of its 2017-2019 biennial budget submittal, and in coordination with the office of financial management and the office of the chief information officer, the department shall submit a timeline and funding plan for the labor system replacement project. The plan must identify a timeline and all one-time and ongoing costs for the integration of all headquarters, regional, and marine employees into the new labor system.

Sec. 211. 2015 1st sp.s. c 10 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 . . . . . .((~~$27,098,000~~)) $27,609,000

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

TOTAL APPROPRIATION . . . . . .((~~$27,132,000~~)) $27,643,000

Sec. 212. 2015 3rd sp.s c 43 s 606 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—AVIATION—PROGRAM F

Aeronautics Account—State Appropriation . . . . . .((~~$8,143,000~~)) $8,628,000

Aeronautics Account—Federal Appropriation. $4,100,000

Aeronautics Account—Private/Local Appropriation $60,000

TOTAL APPROPRIATION . . . . . .((~~$12,303,000~~)) $12,788,000

The appropriations in this section are subject to the following conditions and limitations: ((~~$4,137,000~~)) $4,557,000 of the aeronautics account—state appropriation is provided solely for airport investment studies and the airport aid grant program, which provides competitive grants to public airports for pavement, safety, maintenance, planning, and security. ((~~Of this amount, $637,000 lapses if chapter . . . (Substitute Senate Bill No. 5324), Laws of 2015 3rd sp. sess. (aircraft excise taxes) is not enacted by July 31, 2015, chapter . . . (Substitute Senate Bill No. 6057) Laws of 2015 3rd sp. sess. (relating to revenue) is not enacted by July 31, 2015, and an expenditure to the aeronautics account is not provided in the 2015-2017 omnibus appropriations act by July 31, 2015.~~))

Sec. 213. 2015 1st sp.s. c 10 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 . . . . . .((~~$52,070,000~~)) $53,911,000

Motor Vehicle Account—Federal Appropriation $500,000

Multimodal Transportation Account—State. . . . . .

Appropriation. $250,000
TOTAL APPROPRIATION . . . . . ((~~$52,820,000~~))
$54,661,000

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) $250,000 of the motor vehicle account—state appropriation is provided solely for training intended to retain a knowledgeable and competent core technical staff in the changing environment of highway project design and construction and to provide for the efficient and effective delivery and oversight of projects. The training must focus on the following areas:

(a) Training appropriate staff in regard to coordinating and administrating projects with private sector designers and builders for projects delivered by the design-build construction process;

(b) Training on community engagement to provide project managers with the skills necessary to develop personal relations with the leaders of the affected community to blend project needs with the needs of the community, while providing fair treatment and involvement of community groups and individuals regarding elements of a project subject to environmental regulations, laws, and policies;

(c) Training for partnering and team building skills to avoid conflict and reduce construction claims that arise in contract administration; and

(d) Technical design training required in the fields of hydraulics, hydrology, and storm water abatement, and other fields in support of projects dealing with the fish passage program and highway runoff treatment.

***Sec. 214.** 2015 1st sp.s. c 10 s 214 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—ECONOMIC PARTNERSHIPS—PROGRAM K

Motor Vehicle Account—State Appropriation . . . . . ((~~$582,000~~)) $600,000

Electric Vehicle Charging Infrastructure Account—State Appropriation $1,000,000

TOTAL APPROPRIATION. $1,600,000

The appropriations in this section ((~~is~~)) are subject to the following conditions and limitations:

(1) The economic partnerships program must continue to explore retail partnerships at state-owned park and ride facilities, as authorized in RCW 47.04.295.

(2)(a) 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.

(b) The economic partnership program shall provide a report to the transportation committees of the legislature by January 1, 2017, containing the results of its work with the department's tolling division. The report must include information on additional opportunities that have been examined by the economic partnership program and the department's tolling division for the state to contract with one or more private sector partners to collect tolls and provide services to drivers crossing the Tacoma Narrows bridge. The report must provide information on the feasibility of each type of private sector partnering opportunity examined, including the potential benefits and drawbacks of each, as well as any legal, operational, and other potential barriers that have been identified. The department must address its evaluation of leasing the Tacoma Narrows bridge toll facility and land to concessionaires. The economic partnership program should include a recommendation on which, if any, of the examined opportunities shows sufficient promise to warrant further investigation based on criteria for evaluation recommended by the economic partnership program and the department's tolling division that have been clearly identified in the report.

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

Sec. 214 is partially vetoed. See message at end of chapter.

***Sec. 215.** 2015 1st sp.s. c 10 s 215 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE—PROGRAM M

Motor Vehicle Account—State Appropriation . . . . . ((~~$397,329,000~~)) $418,524,000

Motor Vehicle Account—Federal Appropriation $7,000,000

Tacoma Narrows Toll Bridge Account—State Appropriation. . . . . ((~~$1,768,000~~)) $1,235,000

State Route Number 520 Corridor Account—State Appropriation. $4,448,000

TOTAL APPROPRIATION . . . . . ((~~$410,545,000~~)) $431,207,000

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

(1) ((~~$2,605,000~~)) $6,091,000 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~~)) $1,235,000 of the Tacoma Narrows toll bridge account—state appropriation is provided solely to maintain the new Tacoma Narrows bridge. These funds must be used in accordance with RCW 47.56.830(3).

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

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

(6) $25,000 of the motor vehicle account—state appropriation is provided solely for the Northwest avalanche center for an additional forecaster. However, the amount in this subsection is contingent on the state parks and recreation commission receiving funding for its portion of the Northwest avalanche center forecaster in the omnibus appropriations act. If this funding is not provided by June 30, 2016, the appropriation provided in this subsection lapses.

(7) $1,000,000 of the motor vehicle account—state appropriation is provided solely for safety improvements and operations relating to homeless encampments along Interstate 5 between milepost 162 and milepost 165. The department shall coordinate the timing of the safety improvements with the city of Seattle and King county to ensure that a collaborative and comprehensive approach is taken to address emergency conditions in support of the city's transitional services.

(8) $100,000 of the motor vehicle account—state appropriation is provided solely for the department to submit a request for proposals as part of a pilot project that explores the use of rotary auger ditch cleaning and

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

Sec. 215 is partially vetoed. See message at end of chapter.

Sec. 216. 2015 1st sp.s. c 10 s 216 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—OPERATING

Connecting Washington Account—State Appropriation $30,000
Motor Vehicle Account—State Appropriation . . . . . ((~~$51,572,000~~)) $57,622,000
Motor Vehicle Account—Federal Appropriation $2,050,000
Motor Vehicle Account—Private/Local Appropriation $250,000
TOTAL APPROPRIATION . . . . . ((~~$53,872,000~~)) $59,952,000

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.

(3) The legislature recognizes that congestion is increasing on southbound Interstate 5 in Lynnwood, between the Lynnwood transit center and the Mountlake Terrace freeway station, and that allowing transit buses to operate on the shoulder would provide congestion relief and more reliable travel times. Therefore, the department shall, within existing resources, implement a transit

bus shoulder operations pilot project on southbound Interstate 5 in Lynnwood, between the Lynnwood transit center and the Mountlake Terrace freeway station. The department shall make all necessary changes to handle the increased traffic and provide a ten-foot shoulder for the transit bypass.

(4) $30,000 of the connecting Washington account—state appropriation is provided solely for the department to create and install motorist information sign panels for the Jerry Taylor Veterans Plaza in Sunnyside along the state-owned right-of-way near exits 63, 67, and 69 on Interstate 182 and on state route number 241 near the junction with Yakima Valley highway and to install supplemental directional signs as permitted by the affected local government and in accordance with the "Manual on Uniform Traffic Control Devices" and chapter 47.36 RCW.

(5) The department shall implement Senate Joint Memorial No. 8019 within existing resources if Senate Joint Memorial No. 8019 is enacted by the legislature by June 30, 2016, and the Washington state transportation commission takes action to name the facility per Senate Joint Memorial No. 8019 by June 30, 2017.

Sec. 217. 2015 1st sp.s. c 10 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 . . . . . ((~~$27,842,000~~)) $29,625,000

Motor Vehicle Account—Federal Appropriation . . . . . ((~~$280,000~~)) $1,205,000

Multimodal Transportation Account—State Appropriation. $1,131,000

TOTAL APPROPRIATION . . . . . ((~~$29,253,000~~)) $31,961,000

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.

(3) $750,000 of the motor vehicle account—state appropriation is provided solely for a grant program that makes awards for the following: (a) Support for nonproject agencies, churches, and other entities to help provide outreach to populations underrepresented in the current apprenticeship programs; (b) preapprenticeship training; and (c) child care, transportation, and other supports

that are needed to help women and minorities enter and succeed in apprenticeship. The department must report on grants that have been awarded and the amount of funds disbursed by December 1, 2016, and annually thereafter.

(4)(a) During the 2015-2017 fiscal biennium, the department may proceed with the pilot project selling commercial advertising, including product placement, on department web sites and social media. In addition, the department may sell a version of its mobile application(s) to users who desire to have access to application(s) without advertising.

(b) The department shall deposit all moneys received from the sale of advertisements on web site and mobile applications into the motor vehicle fund created in RCW 46.68.070.

(c) The department shall adopt standards for advertising, product placement, and other forms of commercial recognition that require the department to define and prohibit, at a minimum, the content containing any of the following characteristics, which is not permitted: (i) Obscene, indecent, or discriminatory content; (ii) political or public issue advocacy content; (iii) products, services, or other materials that are offensive, insulting, disparaging, or degrading; or (iv) products, services, or messages that are contrary to the public interest, including any advertisements that encourage or depict unsafe behaviors or encourage unsafe or prohibited driving activities. Alcohol, tobacco, and cannabis are included among the products prohibited.

***Sec. 218.** 2015 1st sp.s. c 10 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 . . . . . ((~~$21,374,000~~)) $22,717,000

Motor Vehicle Account—Federal Appropriation . . . . . ((~~$24,885,000~~)) $26,342,000

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~~)) $52,630,000

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

(1) $368,000 of the motor vehicle account—state appropriation is provided solely for the purchase of an economic impact model. The department shall work with appropriate local jurisdictions to improve consistency between existing and planned transportation demand models. The department shall report back to the transportation committees of the legislature and the office of financial management by December 31, 2015, with any recommendations requiring legislative action.

(2) $1,000,000 of the motor vehicle account—federal appropriation is provided solely for the corridor sketch program. Priority must be given to the state route number 522 corridor between Maltby and the Snohomish river bridge. Initial corridors must also include state route number 195, Interstate 5 between Bellingham and the vicinity of Mount Vernon, state route number 160 in the vicinity of Port Orchard, and state route number 28 in the vicinity of East Wenatchee.

(3) Within existing resources, the department shall conduct a traffic and access study of the intersection of the Interurban trail and state route number 104. Options to improve safety at this location must include consideration of a pedestrian and bike overcrossing.

(4)(a) The department must update the state freight mobility plan to comply with the requirements in section 70202 of the federal fixing America's surface transportation act. In updating the state freight mobility plan, the department must involve key freight stakeholders, such as representatives of public ports, the trucking industry, railroads, the marine industry, local governments and planning organizations, the Washington state freight advisory committee, and other freight stakeholders. The updated plan must delete any obsolete project references from the prioritized freight project list.

(b) The department, in conjunction with the stakeholder group, must provide a list of prioritized projects for consideration for funding in the 2017-2019 fiscal biennium. The prioritized list must have approval from all impacted stakeholders. The prioritized list must be submitted to the office of financial management and the transportation committees of the legislature by November 1, 2016.

(5) Within existing resources, the department must evaluate how light pollution from state highways and facilities can be minimized while still meeting appropriate safety standards. Additionally, the department must evaluate how budget savings can be achieved through different types of lighting. To the extent practicable, the department must conduct this work in conjunction with other ongoing study and corridor planning efforts.

(6) Within existing resources, the transportation planning program, with assistance from the rail program and other programs as needed, shall prepare a report that outlines the state's options for addressing the removal of the Eastside Freight railroad line, which runs from the city of Snohomish to the city of Woodinville, authorized under the rail banking provisions of federal law. This report must evaluate options by which the state may facilitate the preservation and maintenance of the Eastside Freight railroad line, in consideration of what is currently permitted under federal law. The report must address, but is not limited to: What, if any, legal authority the state has to affect projects currently underway in or planned for the Eastside Freight railroad line; whether state acquisition of specific property rights on the Eastside Freight railroad line is permitted under federal law and, if so, whether it could be beneficial to or would be necessary for the preservation and maintenance of the Eastside Freight railroad line; and the extent to which the state may otherwise encourage the preservation of the Eastside Freight railroad line. The report must include sufficient details on each option presented to support its evaluation, as well as the potential benefits and estimated costs associated with options presented that are permissible under

federal law. The evaluation of potential benefits must be conducted in the context of current state rail policy, including RCW 47.76.240. The department must submit the report to the transportation committees of the legislature by December 1, 2016.

(7) $150,000 of the motor vehicle account—state appropriation is provided solely for a safety study of state route number 169 from Jones Road to Cedar Grove. The department must consider collision data and work with local stakeholders to make recommendations for safety improvements in the corridor. A report on the study is due to the transportation committees of the legislature by December 31, 2016.

Sec. 218 is partially vetoed. See message at end of chapter.

Sec. 219. 2015 1st sp.s. c 10 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 . . . . . ((~~$75,700,000~~)) $74,666,000

Motor Vehicle Account—Federal Appropriation $500,000

Multimodal Transportation Account—State Appropriation. . . . . ((~~$3,243,000~~)) $3,115,000

TOTAL APPROPRIATION . . . . . ((~~$79,443,000~~)) $78,281,000

((~~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.~~))

Sec. 220. 2015 1st sp.s. c 10 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. . . . . ((~~$60,000,000~~)) $74,976,000

Rural Mobility Grant Program Account—State Appropriation. . . . . ((~~$17,000,000~~)) $20,438,000

Multimodal Transportation Account—State Appropriation. . . . . ((~~$50,546,000~~)) $72,930,000

Multimodal Transportation Account—Federal Appropriation. . . . . ((~~$3,242,000~~)) $3,588,000

TOTAL APPROPRIATION . . . . . ((~~$131,542,000~~)) $172,686,000

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

(1) ((~~$35,000,000~~)) $41,250,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation. Of this amount:

(a) ((~~$7,500,000~~)) $8,750,000 of the multimodal transportation account—state appropriation is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers must be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) ((~~$27,500,000~~)) $32,500,000 of the multimodal transportation account—state appropriation is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must, to the greatest extent practicable, have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies must be prorated based on the amount expended for demand response service and route deviated service in calendar year 2013 as reported in the "Summary of Public Transportation - 2013" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) ((~~$17,000,000~~)) $20,438,000 of the rural mobility grant program account—state appropriation is provided solely for grants to aid small cities in rural areas as prescribed in RCW 47.66.100.

(3)(a) ((~~$6,000,000~~)) $6,969,000 of the multimodal transportation account—state appropriation is provided solely for a vanpool grant program for: (i) Public transit agencies to add vanpools or replace vans; and (ii) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; operating costs for public transit agencies are not eligible for funding under this grant program. Additional employees may not be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. The department shall encourage grant applicants and recipients to leverage funds other than state funds.

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

(c) $400,000 of the amount provided in this subsection is provided solely for the purchase of additional vans for use by vanpools serving or traveling through the Joint Base Lewis-McChord I-5 corridor between mile post 116 and 127.

(4) ((~~$10,000,000~~)) $18,726,000 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~~)) 2016-2 ALL PROJECTS as developed ((~~May 26, 2015~~)) March 7, 2016, Program - Public Transportation Program (V).

(5)(a) ((~~$50,000,000~~)) $56,250,000 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~~)) 2016-2 ALL

PROJECTS as developed ((~~May 26, 2015~~)) March 7, 2016, Program - Public Transportation Program (V). The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and any remaining funds must be used only to fund projects identified in the LEAP transportation document referenced in this subsection. The department shall provide annual status reports on December 15, 2015, and December 15, 2016, to the office of financial management and the transportation committees of the legislature regarding the projects receiving the grants. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule. A grantee may not receive more than twenty-five percent of the amount appropriated in this subsection. The department shall not approve any increases or changes to the scope of a project for the purpose of a grantee expending remaining funds on an awarded grant.

(b) In order to be eligible to receive a grant under (a) of this subsection during the 2015-2017 fiscal biennium, a transit agency must establish a process for private transportation providers to apply for the use of park and ride facilities. For purposes of this subsection, (i) "private transportation provider" means: An auto transportation company regulated under chapter 81.68 RCW; a passenger charter carrier regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; a private nonprofit transportation provider regulated under chapter 81.66 RCW; or a private employer transportation service provider; and (ii) "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees.

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

(7) $5,670,000 of the multimodal transportation account—state appropriation and $754,000 of the state vehicle parking account—state appropriation are provided solely for CTR grants and activities.

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

(9)(a) $1,000,000 of the multimodal transportation account—state appropriation is provided solely for the Everett connector service for Island and Skagit transit agencies. The amount provided in this subsection is contingent on Island Transit charging fares that achieve a farebox recovery ratio similar to comparable transit systems.

(b) The amount provided in (a) of this subsection must be held in unallotted status until the office of financial management determines that fares have been both adopted and implemented by Island Transit that achieve a farebox recovery ratio similar to comparable transit systems. Island Transit must notify the office of financial management when it has met the requirements of this subsection.

(10)(a) $13,890,000 of the multimodal transportation account—state appropriation is provided solely for projects identified in LEAP Transportation Document 2016-3 as developed March 7, 2016. Except as provided otherwise in this subsection, funds must first be used for projects that are identified as priority one projects. As additional funds become available or if a priority one project is delayed, funding must be provided to priority two projects. If a higher priority project is bypassed, it must be funded when the project is ready. The department must submit a report annually with its budget submittal that, at a minimum, includes information about the listed transit projects that have been funded and projects that have been bypassed, including an estimated time frame for when the bypassed project will be funded.

(b) $831,000 of the amount provided in (a) of this subsection is provided solely for Skagit transit system enhancements for expenditure in 2015-2017.

(c) $2,300,000 of the amount provided in (a) of this subsection is provided solely for Island transit's tri-county connector service for expenditure in 2015-2017.

(d) It is the intent of the legislature to provide $6,000,000 in the 2017-2019 fiscal biennium and $6,000,000 in the 2019-2021 fiscal biennium for the Spokane Central city line, in addition to the 2015-2017 fiscal biennium funding provided in the LEAP transportation document identified in (a) of this subsection. It is further the intent of the legislature to provide a total of $10,000,000 over the 2017-2019 and 2019-2021 fiscal biennia for the Northgate transit center pedestrian bridge.

(e) Within existing resources, the public transportation program must develop recommendations regarding potential modifications to the process by which funding is provided to the projects listed in the LEAP transportation document identified in (a) of this subsection. These modifications should include, but are not limited to, options for accelerating the delivery of the listed projects and options for further prioritizing the listed projects. The department must submit a report regarding its recommendations to the transportation committees of the legislature by November 15, 2016.

(11) $1,000,000 of the multimodal transportation account—state appropriation is provided solely for transit coordination grants.

(12) Within the amounts provided in this section, the public transportation program must conduct a study of public transportation agencies in Washington that provide regional public transportation service outside the boundaries of the agency. The study must consider: (a) The cost to provide these existing regional services, the current source of funds for these services, and the applicable ridership data from these existing regional services; (b) the number of trips removed from the state highway system as a result of these regional services; (c) areas of the state highway system that do not have such regional service available; and (d) potential funding sources at the state level to support a portion of current and potential regional services. The public transportation program must provide a report on its findings and recommendations to the transportation committees of the legislature by November 15, 2016.

Sec. 221. 2015 1st sp.s. c 10 s 221 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X

Puget Sound Ferry Operations Account—State
Appropriation. . . . . ((~~$483,637,000~~))
$478,319,000
Puget Sound Ferry Operations Account—Federal
Appropriation. $5,908,000
Puget Sound Ferry Operations Account—Private/Local
Appropriation. $121,000
TOTAL APPROPRIATION . . . . . ((~~$483,758,000~~))
$484,348,000

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~~)) $78,306,000 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~~)), c 10, Laws of 2015 1st sp. sess. The amount provided in this subsection represents the fuel budget for the purposes of calculating any ferry fare fuel surcharge.

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

(6) During the 2015-2017 fiscal biennium, the department shall not operate a winter sailing schedule for a time period longer than twelve weeks.

(7) $496,000 of the Puget Sound ferry operations account—state appropriation is provided solely for ferry terminal traffic control at the Fauntleroy ferry terminal. The department shall utilize existing contracts to provide a uniformed officer to assist with ferry terminal traffic control at the Fauntleroy ferry terminal.

(8) ((~~$1,151,000~~)) $1,551,000 of the Puget Sound ferry operations account—state appropriation is provided solely for improvements to the reservation system. The department shall actively encourage ferry reservation customers to use the online option for making and changing reservations and shall not use these funds for call center staff.

(9) $30,000 of the Puget Sound ferry operations account—state appropriation is provided solely for the marine division assistant secretary's designee to the board of pilotage commissioners, who serves as the board chair. As the agency chairing the board, the department shall direct the board chair, in his or her capacity as chair, to require that the report to the governor and chairs of the transportation committees required under RCW 88.16.035(1)(f) be filed by September 1, 2015, and annually thereafter, and that the report include the establishment of policies and procedures necessary to increase the diversity of pilots, trainees, and applicants, including a diversity action plan. The diversity action plan must articulate a comprehensive vision of the board's diversity goals and the steps it will take to reach those goals.

(10) $5,908,000 of the Puget Sound ferry operations account—federal appropriation is provided solely for vessel maintenance.

(11) $48,000 of the Puget Sound ferry operations account—state appropriation is provided solely for staff sufficient to allow passenger accessibility aboard the M/V Tokitae to the sun deck during daylight hours on Saturdays and Sundays of the summer sailing season.

Sec. 222. 2015 1st sp.s. c 10 s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—OPERATING

Multimodal Transportation Account—State Appropriation. . . . . ((~~$58,744,000~~)) $59,473,000

Multimodal Transportation Account—Private/Local Appropriation. $45,000

TOTAL APPROPRIATION . . . . . ((~~$58,789,000~~)) $59,518,000

Sec. 223. 2015 1st sp.s. c 10 s 223 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—OPERATING

Motor Vehicle Account—State Appropriation . . . . . ((~~$8,986,000~~)) $9,324,000

Motor Vehicle Account—Federal Appropriation $2,567,000

Multiuse Roadway Safety Account—State Appropriation. $131,000

TOTAL APPROPRIATION . . . . . ((~~$11,684,000~~)) $12,022,000

TRANSPORTATION AGENCIES—CAPITAL

Sec. 301. 2015 1st sp.s. c 10 s 301 (uncodified) is amended to read as follows:

FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

Freight Mobility Investment Account—State Appropriation. . . . . ((~~$8,852,000~~)) $13,217,000

Freight Mobility Multimodal Account—State Appropriation. . . . . ((~~$9,937,000~~)) $11,859,000

Freight Mobility Multimodal Account—Private/Local
Appropriation. $1,320,000
Highway Safety Account—State Appropriation. . . . . .((~~$2,250,000~~))
$2,765,000
Motor Vehicle Account—State Appropriation $83,000
Motor Vehicle Account—Federal Appropriation $3,250,000
TOTAL APPROPRIATION . . . . . .((~~$25,692,000~~))
$32,494,000

***Sec. 302.** 2015 1st sp.s. c 10 s 302 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL

State Patrol Highway Account—State Appropriation . . . . . .((~~$5,310,000~~))
$5,895,000

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

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

(2) $560,000 of the state patrol highway account—state appropriation is provided solely for the replacement of the roofs of the Shelton academy multipurpose building, Tacoma district office building, Kennewick detachment building, and Ridgefield and Plymouth weigh station buildings.

(3) $150,000 of the state patrol highway account—state appropriation is provided solely for upgrades to scales at Goldendale required to meet current certification requirements.

(4) $2,350,000 of the state patrol highway account—state appropriation is provided solely for funding to repair and replace the academy asphalt emergency vehicle operation course.

(5) $500,000 of the state patrol highway account—state appropriation is provided solely for replacement of generators at Marysville, Baw Faw, Gardner, Pilot Rock, and Ridpath.

(6) $150,000 of the state patrol highway account—state appropriation is provided solely for painting and caulking in several locations.

(7) $350,000 of the state patrol highway account—state appropriation is provided solely for pavement preservation at the Wenatchee district office and the Spokane district office.

(8) $700,000 of the state patrol highway account—state appropriation is provided solely for energy upgrades at two district offices and two detachments.

(9) $300,000 of the state patrol highway account—state appropriation is provided solely for repair of the academy training tank.

(10) $130,000 of the state patrol highway account—state appropriation is provided solely for communication site roof repair to reroof equipment shelters at radio communication sites statewide.

(11) $275,000 of the state patrol highway account—state appropriation is provided solely for the replacement of the broadcast tower at the Steptoe Butte radio communications site.

(12) $100,000 of the state patrol highway account—state appropriation is provided solely for the dry-pipe fire suppression system rebuild at the Marysville district office.

(13) $80,000 of the state patrol highway account—state appropriation is provided solely for the construction of a weatherproof enclosure of the generator at the Whiskey Ridge radio communications site. The enclosure's total cost must not exceed $80,000, and no other Washington state patrol appropriations may be utilized for this project except for the funds provided in this subsection.

Sec. 302 is partially vetoed. See message at end of chapter.

Sec. 303. 2015 1st sp.s. c 10 s 303 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account—State Appropriation. . . . . ((~~$46,000,000~~)) $56,094,000

Motor Vehicle Account—State Appropriation $10,706,000

County Arterial Preservation Account—State Appropriation. . . . . ((~~$31,250,000~~)) $32,344,000

TOTAL APPROPRIATION . . . . . ((~~$87,956,000~~)) $99,144,000

Sec. 304. 2015 1st sp.s. c 10 s 304 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Small City Pavement and Sidewalk Account—State Appropriation. . . . . ((~~$3,931,000~~)) $4,301,000

Highway Safety Account—State Appropriation $10,000,000

Transportation Improvement Account—State Appropriation. . . . . ((~~$179,452,000~~)) $249,988,000

Multimodal Transportation Account—State Appropriation. $3,313,000

TOTAL APPROPRIATION . . . . . ((~~$193,383,000~~)) $267,602,000

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

(1) The highway safety account—state appropriation is provided solely for:

(((~~(1)~~))) (a) The arterial preservation program to help low tax-based, medium-sized cities preserve arterial pavements;

(((~~(2)~~))) (b) The small city pavement program to help cities meet urgent preservation needs; and

(((~~(3)~~))) (c) The small city low-energy street light retrofit demonstration program.

(2) $3,313,000 of the multimodal transportation account—state appropriation is provided solely for the complete streets program.

Sec. 305. 2015 1st sp.s. c 10 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. . . . . ((~~$211,000~~)) $1,043,000

Motor Vehicle Account—State Appropriation . . . . . ((~~$4,270,000~~)) $7,276,000

Connecting Washington Account—State Appropriation $14,000,000

TOTAL APPROPRIATION . . . . . ((~~$4,481,000~~)) $22,319,000

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

((~~$211,000~~)) (1) $1,043,000 of the transportation partnership account—state appropriation is provided solely for completion of a new traffic management center in Shoreline, Washington. By September 30, 2015, the department shall report to the transportation committees of the legislature and the office of financial management on the resulting vacancy rate of the existing regional headquarters building in Shoreline, plans to consolidate department staff into the building, and the schedule for terminating the current lease of the Goldsmith building in Seattle, and provide an update on future plans to consolidate agency staff within the region.

(2) $4,000,000 of the connecting Washington account—state appropriation is provided solely for a new Olympic region maintenance and administration facility to be located on the department-owned site at the intersection of Marvin Road and 32nd Avenue. The property purchase was approved by the 2005 legislature for the site of the new Olympic region and the land was acquired by the department in August 2005. The department must work with the office of financial management's facilities oversight program to develop a revised predesign for a new Olympic region facility, with an estimated total cost of no more than forty million dollars. Priority must be given to accommodating the maintenance and operations functions of the Olympic region. The department must provide a copy of the revised predesign to the transportation committees of the legislature by December 2015.

(3) $10,000,000 of the connecting Washington account—state appropriation is provided solely for a new administration facility on Euclid Avenue in Wenatchee, Washington.

Sec. 306. 2015 1st sp.s. c 10 s 306 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—IMPROVEMENTS—PROGRAM I

Multimodal Transportation Account—State Appropriation. . . . . ((~~$21,388,000~~)) $19,181,000

Transportation Partnership Account—State Appropriation. . . . . ((~~$1,075,309,000~~)) $1,065,758,000

Motor Vehicle Account—State Appropriation . . . . . ((~~$64,991,000~~))

$71,841,000
Motor Vehicle Account—Federal Appropriation . . . . . ((~~$251,313,000~~))
$315,447,000
Motor Vehicle Account—Private/Local Appropriation . . . . . ((~~$167,259,000~~))
$177,022,000
Transportation 2003 Account (Nickel Account)—State Appropriation. . . . . ((~~$104,366,000~~))
$79,064,000
State Route Number 520 Corridor Account—State Appropriation. . . . . ((~~$367,792,000~~))
$368,121,000
State Route Number 520 Corridor Account—Federal Appropriation. $104,801,000
State Route Number 520 Civil Penalties Account—State Appropriation . . . . . ((~~$15,000,000~~))
$14,000,000
((~~Alaskan Way Viaduct Replacement Project Account—State Appropriation . . . . . $50,110,000~~))
Special Category C Account—State Appropriation $6,000,000
Connecting Washington Account—State Appropriation $229,425,000
TOTAL APPROPRIATION . . . . . ((~~$2,228,329,000~~))
$2,450,660,000

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~~)) 2016-1 as developed ((~~May 26, 2015~~)) March 7, 2016, 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~~)) 2016-2 ALL PROJECTS as developed ((~~May 26, 2015~~)) March 7, 2016, 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~~)) $79,064,000 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~~)) $546,857,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

(6) ((~~$3,700,000~~)) $4,359,000 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~~)) $267,071,000 of the transportation partnership account—state appropriation, ((~~$15,300,000~~)) $55,389,000 of the motor vehicle account—federal appropriation, ((~~$154,263,000~~)) $156,423,000 of the motor vehicle account—private/local appropriation, ((~~$69,479,000~~)) $45,400,000 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~~)) $2,139,000 of the multimodal transportation account—state appropriation are provided solely for the SR 99/Alaskan Way Viaduct Replacement project (809936Z).

(8) $17,000,000 of the multimodal transportation account—state appropriation ((~~is~~)) and $1,676,000 of the transportation partnership account—state appropriation are provided solely for transit mitigation for the SR 99/Viaduct Project - Construction Mitigation project (809940B). The transportation partnership account—state appropriation must be placed in unallotted status and may only be released by the office of financial management for unpaid invoices from the 2013-2015 fiscal biennium.

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

(10) ((~~$13,881,000~~)) $22,191,000 of the transportation partnership account—state appropriation, ((~~$9,753,000~~)) $5,576,000 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, $368,000 of the motor vehicle account—state appropriation, $13,000 of the motor vehicle account—private/local appropriation, and ((~~$6,348,000~~)) $12,976,000 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~~)) $34,732,000 of the transportation partnership account—state appropriation, ((~~$10,317,000~~)) $7,329,000 of the transportation 2003 account (nickel account)—state appropriation, and ((~~$1,000~~)) $56,000 of the motor vehicle account—private/local appropriation are provided solely for the I-405/Kirkland Vicinity Stage 2 - Widening project (8BI1002). This project must be completed as soon as practicable as a design-build project. Any future savings on this project or other Interstate 405 corridor projects must stay on the Interstate 405 corridor and be made available to either the I-405/SR 167 Interchange - Direct Connector project (140504C) or the I-405 Renton to Bellevue project in the 2015-2017 fiscal biennium.

(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~~)) $343,834,000 in proceeds from the sale of bonds authorized in RCW 47.10.879 and 47.10.886.

(c) The state route number 520 corridor account—federal appropriation includes up to $104,801,000 in proceeds from the sale of bonds authorized in RCW 47.10.879 and 47.10.886.

(d) ((~~$82,195,000~~)) $126,937,000 of the transportation partnership account—state appropriation, $104,801,000 of the state route number 520 corridor account—federal appropriation, and ((~~$367,792,000~~)) $368,121,000 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~~)) $233,085,000 of the state route number 520 corridor account—state appropriation must be put into unallotted status and is subject to review by the office of financial management. The director of the office of financial management shall consult with the joint transportation committee prior to making a decision to allot these funds.

(e) When developing the financial plan for the project, the department shall assume that all maintenance and operation costs for the new facility are to be covered by tolls collected on the toll facility and not by the motor vehicle account.

(13) ((~~$15,000,000~~)) $14,000,000 of the state route number 520 civil penalties account—state appropriation is provided solely for the department to continue to work with the Seattle department of transportation in their joint planning, design, right-of-way acquisition, outreach, and operation of the remaining west side elements including, but not limited to, the Montlake lid, the bicycle/pedestrian path, the effective network of transit connections, and the Portage Bay bridge of the SR 520 Bridge Replacement and HOV project.

(14) ((~~$548,000~~)) $1,056,000 of the motor vehicle account—federal appropriation and ((~~$19,000~~)) $38,000 of the motor vehicle account—state appropriation are provided solely for the 31st Ave SW Overpass Widening and Improvement project (L1100048).

(15) The legislature finds that there are sixteen companies involved in wood preserving in the state that employ four hundred workers and have an annual payroll of fifteen million dollars. Prior to the department's switch to steel

guardrails, ninety percent of the twenty-five hundred mile guardrail system was constructed of preserved wood and one hundred ten thousand wood guardrail posts were produced annually for state use. Moreover, the policy of using steel posts requires the state to use imported steel. Given these findings, where practicable, and until June 30, 2017, the department shall include the design option to use wood guardrail posts, in addition to steel posts, in new guardrail installations. The selection of posts must be consistent with the agency design manual policy that existed before December 2009.

(16) For urban corridors that are all or partially within a metropolitan planning organization boundary, for which the department has not initiated environmental review, and that require an environmental impact statement, at least one alternative must be consistent with the goals set out in RCW 47.01.440.

(17) The department shall itemize all future requests for the construction of buildings on a project list and submit them through the transportation executive information system as part of the department's 2016 budget submittal. It is the intent of the legislature that new facility construction must be transparent and not appropriated within larger highway construction projects.

(18) ((~~$59,438,000~~)) $52,869,000 of the motor vehicle account—federal appropriation, ((~~$572,000~~)) $4,439,000 of the motor vehicle account—state appropriation, and ((~~$388,000~~)) $1,085,000 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.~~)) Except as provided otherwise in this section, the entire connecting Washington account appropriation is provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2016-1 as developed March 7, 2016, Program - Highway Improvements Program (I).

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

(22) Of the amounts allocated to the Puget Sound Gateway project (M00600R) in LEAP Transportation Document 2016-1 as developed March 7, 2016, $4,000,000 must be used to complete the bridge connection at 28th/24th Street over state route number 509 in the city of SeaTac. The bridge connection must be completed prior to other construction on the state route number 509 segment of the project.

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

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

(25) $1,500,000 of the motor vehicle account—state appropriation is provided solely for the department to complete an interchange justification report (IJR) for the U.S. 2 trestle, covering the state route number 204 and 20th Street interchanges at the end of the westbound structure.

(a) The department shall develop the IJR in close collaboration with affected local jurisdictions, including Snohomish county and the cities of Everett, Lake Stevens, Marysville, Snohomish, and Monroe.

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

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

(26)(a) The department must conduct outreach to local transit agencies during the planning process for highway construction projects led by the department.

(b) The department must develop process recommendations for best practices in minimizing impacts to transit and freight during project construction. A report on best practices must be submitted to the transportation committees of the legislature by December 1, 2016.

(27) The legislature finds that project efficiencies and savings may be gained by combining the I-5 Marine Drive project (I5OTC1A1) and the SR 529/I-5 Interchange project (N52900R). The department must deliver them as one project, the I-5 Peak Hour Use Lanes and Interchange Improvements project (L2000229), using a design-build approach.

(28) The legislature recognizes that the city of Mercer Island has unique access issues that require the use of Interstate 90 to leave the island and that this access may be impeded by the I-90/Two Way Transit and HOV Improvements project. The department must continue to work with the city of Mercer Island to address potential access solutions as the project nears completion.

Sec. 307. 2015 1st sp.s. c 10 s 307 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PRESERVATION—PROGRAM P

Transportation Partnership Account—State Appropriation. . . . . ((~~$12,057,000~~)) $6,489,000

Motor Vehicle Account—State Appropriation . . . . . ((~~$56,024,000~~)) $70,908,000

Motor Vehicle Account—Federal Appropriation . . . . . ((~~$391,681,000~~)) $475,025,000

Motor Vehicle Account—Private/Local Appropriation . . . . . ((~~$8,104,000~~)) $8,647,000

Transportation 2003 Account (Nickel Account)—State Appropriation. . . . . ((~~$40,457,000~~)) $28,032,000

Tacoma Narrows Toll Bridge Account—State Appropriation. $4,564,000

Recreational Vehicle Account—State Appropriation . . . . . ((~~$1,509,000~~)) $2,194,000

High Occupancy Toll Lanes Operations Account—State Appropriation. . . . . ((~~$800,000~~)) $1,000,000

State Route Number 520 Corridor Account—State Appropriation. . . . . ((~~$720,000~~)) $1,730,000

Connecting Washington Account—State Appropriation $79,963,000

TOTAL APPROPRIATION . . . . . ((~~$515,916,000~~)) $678,552,000

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~~)) 2016-1 as developed ((~~May 26, 2015~~)) March 7, 2016, 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~~)) 2016-2 ALL PROJECTS as developed ((~~May 26, 2015~~)) March 7, 2016, 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~~)) $28,032,000 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~~)) $38,142,000 of the motor vehicle account—federal appropriation ((~~is~~)) and $858,000 of the motor vehicle account—state appropriation are provided solely for the preservation of structurally deficient bridges or bridges that are at risk of becoming structurally deficient. These funds must be used widely around the state of Washington. The department shall provide a report that identifies the scope, cost, and benefit of each project funded in this subsection as part of its 2016 agency budget request.

(7) Except as provided otherwise in this section, the entire connecting Washington account appropriation in this section is provided solely for the projects and activities as listed in LEAP Transportation Document 2016-1 as developed March 7, 2016, Program - Highway Preservation Program (P).

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

(9) $5,000,000 of the motor vehicle account—state appropriation is provided solely for extraordinary costs incurred from litigation awards, settlements, or dispute mitigation activities not eligible for funding from the self-insurance fund. The amount provided in this subsection must be held in unallotted status until the department submits a request to the office of financial management that includes documentation detailing litigation-related expenses. The office of financial management may release the funds only when it determines that all other funds designated for litigation awards, settlements, and dispute mitigation activities have been exhausted. No funds provided in this subsection may be expended on any legal fees related to the SR99/Alaskan Way viaduct replacement project.

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

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

(11) The department must consult with the Washington state patrol during the design phase of a department-led improvement or preservation project that could impact weigh station operations. The department must ensure that the designs of the projects do not prevent or interfere with weigh station operations.

Sec. 308. 2015 1st sp.s. c 10 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—CAPITAL

Motor Vehicle Account—State Appropriation . . . . . ((~~$5,898,000~~)) $7,190,000

Motor Vehicle Account—Federal Appropriation . . . . . ((~~$6,132,000~~)) $7,567,000

Motor Vehicle Account—Private/Local Appropriation $200,000

TOTAL APPROPRIATION . . . . . ((~~$12,230,000~~)) $14,957,000

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

Sec. 309. 2015 1st sp.s. c 10 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. . . . . ((~~$40,347,000~~)) $57,764,000

Puget Sound Capital Construction Account—Federal Appropriation. . . . . ((~~$126,515,000~~)) $153,647,000

Puget Sound Capital Construction Account—Private/Local Appropriation. . . . . ((~~$10,331,000~~)) $3,730,000

((~~Multimodal Transportation Account—State Appropriation. . . . . $2,734,000~~))

Transportation 2003 Account (Nickel Account)—State Appropriation. . . . . ((~~$81,583,000~~)) $122,089,000

Connecting Washington Account—State Appropriation $68,805,000

TOTAL APPROPRIATION . . . . . ((~~$261,510,000~~)) $406,035,000

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~~)) 2016-2 ALL PROJECTS as developed ((~~May 26, 2015~~)) March 7, 2016, Program - Washington State Ferries Capital Program (W).

(2) ((~~$73,000,000~~)) $90,545,000 of the transportation 2003 account (nickel account)—state appropriation is provided solely for the acquisition of a 144-car vessel (L1000063). The department shall use as much already procured equipment as practicable on the 144-car vessels.

(3) ((~~$40,617,000~~)) $46,989,000 of the Puget Sound capital construction account—federal appropriation, $2,000,000 of the connecting Washington account—state appropriation, $562,000 of the transportation 2003 account (nickel account)—state appropriation, and ((~~$608,000~~)) $490,000 of the Puget Sound capital construction account—state appropriation are provided solely for the Mukilteo ferry terminal (952515P). It is the intent of the legislature, over the sixteen-year investment program, to provide $155,000,000 to complete the Mukilteo Terminal Replacement project (952515P). These funds are identified in the LEAP transportation document referenced in subsection (1) of this section. To the greatest extent practicable and within available resources, the department shall design the new terminal to be a net zero energy building. To achieve this goal, the department shall evaluate using highly energy efficient equipment and systems, and the most appropriate renewable energy systems for the needs and location of the terminal.

(4) ((~~$4,000,000~~)) $7,000,000 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. Additionally, the long range plan must include a vessel retirement schedule and associated reserve vessel policy recommendations.

(8) $325,000 of the Puget Sound capital construction account—state appropriation is provided solely for the ferry system to participate in the development of one account-based system for customers of both the ferry system

and tolling system. The current Wave2Go ferry ticketing system is reaching the end of its useful life and the department is expected to develop a replacement account-based system as part of the new tolling division customer service center toll collection system.

(9) Within existing resources, the department must evaluate the feasibility of utilizing the federal EB-5 immigrant investor program for financing the construction of a safety of life at sea (SOLAS) certificated vessel for the Anacortes-Sidney ferry route. The department must establish a group that includes, but is not limited to, the department of commerce and entities or individuals experienced with vessel engineering and EB-5 financing for assistance in evaluating the applicability of the EB-5 immigrant investor program. The department must deliver a report containing the results of the evaluation to the transportation committees of the legislature and the office of financial management by December 1, 2015.

(10) It is the intent of the legislature, over the sixteen-year investment program, to provide $316,000,000 to complete the Seattle Terminal Replacement project (900010L), including: (a) Design work and selection of a preferred plan, (b) replacing timber pilings with pilings sufficient to support a selected terminal design, (c) replacing the timber portion of the dock with a new and reconfigured steel and concrete dock, and (d) other staging and construction work as the amount allows. These funds are identified in the LEAP transportation document referenced in subsection (1) of this section.

(11) It is the intent of the legislature, over the sixteen-year new investment program, to provide $122,000,000 in state funds to complete the acquisition of a fourth 144-car vessel (L2000109). These funds are identified in the LEAP transportation document referenced in subsection (1) of this section.

(12) $300,000 of the Puget Sound capital construction account—state appropriation is provided solely to issue a request for proposals and purchase pilot program customer counting equipment. By June 30, 2017, the department must report to the governor and the transportation committees of the legislature on the most effective way to count ferry passengers.

(13) $1,430,000 of the Puget Sound capital construction account—federal appropriation and $1,366,000 of the Puget Sound capital construction—state appropriation are provided solely for installation of security access control and video monitoring systems, and for enhancing wireless network capacity to handle higher security usage, increase connectivity between vessels and land-based facilities, and isolate the security portion of the network from regular business (project 998925A).

(14) The transportation 2003 account (nickel account)—state appropriation includes up to $4,131,000 in proceeds from the sale of bonds authorized in RCW 47.10.861.

Sec. 310. 2015 1st sp.s. c 10 s 310 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—CAPITAL

Essential Rail Assistance Account—State
Appropriation. . . . . ((~~$820,000~~))
$1,459,000

Transportation Infrastructure Account—State

Appropriation. . . . . ((~~$7,033,000~~)) $7,154,000

Multimodal Transportation Account—State
Appropriation. . . . . ((~~$12,759,000~~)) $37,205,000

Multimodal Transportation Account—Federal
Appropriation. . . . . ((~~$363,318,000~~)) $492,217,000

TOTAL APPROPRIATION . . . . . ((~~$383,930,000~~)) $538,035,000

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~~)) 2016-2 ALL PROJECTS as developed ((~~May 26, 2015~~)) March 7, 2016, 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~~)) $5,484,000 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~~)) $487,297,000 of the multimodal transportation account—federal appropriation and ((~~$5,740,000~~)) $13,679,000 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~~)) $1,114,000 of the essential rail assistance account—state appropriation ((~~and $305,000~~)), $766,000 of the multimodal transportation account—state appropriation, and $68,000 of the transportation infrastructure account—state appropriation are provided solely for the purpose of the rehabilitation and maintenance of the Palouse river and Coulee City railroad line (F01111B).

(b) Expenditures from the essential rail assistance account—state in this subsection may not exceed the combined total of:

(i) Revenues deposited into the essential rail assistance account from leases and sale of property pursuant to RCW 47.76.290; and

(ii) Revenues transferred from the miscellaneous program account to the essential rail assistance account, pursuant to RCW 47.76.360, for the purpose of sustaining the grain train program by maintaining the Palouse river and Coulee City railroad.

(6) The department shall issue a call for projects for the freight rail assistance program, and shall evaluate the applications in a manner consistent with past practices as specified in section 309, chapter 367, Laws of 2011. By November 15, 2016, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

Sec. 311. 2015 1st sp.s. c 10 s 311 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—CAPITAL

Highway Infrastructure Account—State Appropriation . . . . . ((~~$782,000~~)) $790,000

Highway Infrastructure Account—Federal Appropriation . . . . . ((~~$202,000~~)) $503,000

Transportation Partnership Account—State Appropriation . . . . . ((~~$1,507,000~~)) $4,054,000

Highway Safety Account—State Appropriation . . . . . ((~~$9,965,000~~)) $11,647,000

Motor Vehicle Account—State Appropriation . . . . . ((~~$500,000~~)) $1,271,000

Motor Vehicle Account—Federal Appropriation . . . . . ((~~$17,829,000~~)) $28,043,000

Multimodal Transportation Account—State Appropriation. . . . . ((~~$15,331,000~~)) $34,031,000
Connecting Washington Account—State Appropriation $47,669,000
TOTAL APPROPRIATION . . . . . ((~~$46,116,000~~)) $128,008,000

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~~)) 2016-2 ALL PROJECTS as developed ((~~May 26, 2015~~)) March 7, 2016, 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~~)) $20,653,000 of the multimodal transportation account—state appropriation and ((~~$1,507,000~~)) $3,579,000 of the transportation partnership account—state appropriation are provided solely for pedestrian and bicycle safety program projects (project L2000188).

(b) ((~~$6,100,000~~)) $11,400,000 of the motor vehicle account—federal appropriation, $1,750,000 of the multimodal transportation account—state 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~~)) $8,782,000 of the motor vehicle account—federal appropriation, ((~~$1,133,000~~)) $124,000 of the multimodal transportation account—state appropriation, and ((~~$3,215,000~~)) $4,897,000 of the highway safety account—state appropriation are reappropriated for safe routes to school projects selected in the previous biennia (project L2000189). The department may consider the special situations facing high-need areas, as defined by schools or project areas in which the percentage of the children eligible to receive free and reduced-price meals under the national school lunch program is equal to, or greater than, the state average as determined by the department, when evaluating project proposals against established funding criteria while ensuring continued compliance with federal eligibility requirements.

(3) The department shall submit a report to the transportation committees of the legislature by December 1, 2015, and December 1, 2016, on the status of projects funded as part of the pedestrian safety/safe routes to school grant program (((~~0LP600P~~))). The report must include, but is not limited to, a list of projects selected and a brief description of each project's status.

(4) $500,000 of the motor vehicle account—state appropriation is provided solely for the Edmonds waterfront at-grade train crossings alternatives analysis project (L2000135). The department shall work with the city of Edmonds and provide a preliminary report of key findings to the transportation committees of the legislature and the office of financial management by December 1, 2015.

(5)(a) $9,900,000 of the multimodal transportation account—state appropriation is provided solely for bicycle and pedestrian projects listed in LEAP Transportation Document 2016-4 as developed March 7, 2016. Funds

must first be used for projects that are identified as priority one projects. As additional funds become available or if a priority one project is delayed, funding must be provided to priority two projects and then to priority three projects. If a higher priority project is bypassed, it must be funded in the first round after the project is ready. If funds become available as a result of projects being removed from this list or completed under budget, the department may submit additional bicycle and pedestrian safety projects for consideration by the legislature. The department must submit a report annually with its budget submittal that, at a minimum, includes information about the listed bicycle and pedestrian projects that have been funded and projects that have been bypassed, including an estimated time frame for when the project will be funded.

(b) Within existing resources, the local programs division must develop recommendations regarding potential modifications to the process by which funding is provided to the projects listed in the LEAP transportation document identified in (a) of this subsection. These modifications should include, but are not limited to, options for accelerating delivery of the listed projects and options for further prioritizing the listed projects. The department must submit a report regarding its recommendations to the transportation committees of the legislature by November 15, 2016.

TRANSFERS AND DISTRIBUTIONS

Sec. 401. 2015 1st sp.s. c 10 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. . . . . ((~~$2,559,000~~)) $3,610,000

Highway Bond Retirement Account—State Appropriation. . . . . ((~~$1,169,927,000~~)) $1,176,906,000

Ferry Bond Retirement Account—State Appropriation $29,230,000

Transportation Improvement Board Bond Retirement Account—State Appropriation $16,129,000

State Route Number 520 Corridor Account—State Appropriation. $559,000

Nondebt-Limit Reimbursable Bond Retirement Account—State Appropriation $25,837,000

Toll Facility Bond Retirement Account—State Appropriation. . . . . ((~~$62,885,000~~)) $72,880,000

Motor Vehicle Account—State Appropriation. $2,500,000

Transportation 2003 Account (Nickel Account)—State Appropriation. . . . . ((~~$719,000~~)) $477,000

TOTAL APPROPRIATION . . . . . ((~~$1,307,286,000~~)) $1,328,128,000

The appropriations in this section are subject to the following conditions and limitations: $2,500,000 of the motor vehicle account—state appropriation is provided solely for debt service payment and withholding for the Tacoma Narrows bridge, with the intent of forestalling the need for the Washington state transportation commission to raise toll rates for the Tacoma Narrows bridge for fiscal year 2017.

Sec. 402. 2015 1st sp.s. c 10 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. . . . . ((~~$512,000~~)) $697,000

Transportation 2003 Account (Nickel Account)—State Appropriation. . . . . ((~~$143,000~~)) $87,000

TOTAL APPROPRIATION . . . . . ((~~$655,000~~)) $784,000

Sec. 403. 2015 1st sp.s. c 10 s 403 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT TO BE PAID BY STATUTORILY PRESCRIBED REVENUE

Toll Facility Bond Retirement Account—Federal Appropriation. . . . . ((~~$200,637,000~~)) $200,215,000

Toll Facility Bond Retirement Account—State Appropriation. . . . . ((~~$12,455,000~~)) $12,009,000

TOTAL APPROPRIATION . . . . . ((~~$213,092,000~~)) $212,224,000

Sec. 404. 2015 1st sp.s. c 10 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 . . . . . ((~~$489,359,000~~)) $497,071,000

NEW SECTION. **Sec. 405.** A new section is added to 2015 1st sp.s. c 10 (uncodified) to read as follows:

FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

Multimodal Transportation Account—State Appropriation: For distributions to cities and counties. $12,500,000

Motor Vehicle Account—State Appropriation: For distributions to cities and counties. $10,938,000
TOTAL APPROPRIATION $23,438,000

Sec. 406. 2015 1st sp.s. c 10 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. . . ((~~$1,269,319,000~~)) $1,831,879,000

Sec. 407. 2015 1st sp.s. c 10 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 . . . . . ((~~$143,664,000~~)) $182,730,000

Sec. 408. 2015 1st sp.s. c 10 s 407 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—ADMINISTRATIVE TRANSFERS

(1) Multimodal Transportation Account—State Appropriation: For transfer to the Puget Sound Ferry Operations Account—State. $10,000,000

(2) Multimodal Transportation Account—State Appropriation: For transfer to the Puget Sound Capital Construction Account—State. $12,000,000

(3) State Route Number 520 Civil Penalties Account—State Appropriation: For transfer to the State Route Number 520 Corridor Account—State . . . . . ((~~$916,000~~)) $1,631,000

(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~~)) $18,000,000

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

(9) Motor Vehicle Account—State Appropriation: For transfer to the Puget Sound Ferry Operations Account—State. $10,000,000

(10) State Patrol Highway Account—State Appropriation: For transfer to the Connecting Washington Account—State $9,690,000

(11) Transportation Partnership Account—State Appropriation: For transfer to the Connecting Washington Account—State $4,998,000

(12) Motor Vehicle Account—State Appropriation: For transfer to the Connecting Washington Account—State $25,781,000

(13) Puget Sound Ferry Operations Account—State Appropriation: For transfer to the Connecting Washington Account—State $596,000

(14) Transportation 2003 Account (Nickel Account)—State Appropriation: For transfer to the Connecting Washington Account—State $2,270,000

(15) Highway Safety Account—State Appropriation: For transfer to the Multimodal Transportation Account—State $5,000,000

(16) Motor Vehicle Account—State Appropriation: For transfer to the Freight Mobility Investment Account—State $1,922,000

(17) Motor Vehicle Account—State Appropriation: For transfer to the Transportation Improvement Account—State $2,188,000

(18) Motor Vehicle Account—State Appropriation: For transfer to the Rural Arterial Trust Account—State $1,094,000

(19) Motor Vehicle Account—State Appropriation: For transfer to the County Arterial Preservation Account—State $1,094,000

(20) Multimodal Transportation Account—State Appropriation: For transfer to the Freight Mobility Multimodal Account—State $1,922,000

(21) Multimodal Transportation Account—State Appropriation: For transfer to the Regional Mobility Grant Program Account—State $6,250,000

(22) Multimodal Transportation Account—State Appropriation: For transfer to the Rural Mobility Grant Program Account—State $3,438,000

(23) Multimodal Transportation Account—State Appropriation: For transfer to the Electric Vehicle Charging Infrastructure Account—State $1,000,000

(24) Capital Vessel Replacement Account—State Appropriation: For transfer to the Connecting Washington Account—State $59,000,000

(25) Multimodal Transportation Account—State Appropriation: For transfer to the Connecting Washington Account—State $8,000,000

(26) Multimodal Transportation Account—State Appropriation: For transfer to the Aeronautics Account—State $250,000

COMPENSATION

Sec. 501. 2015 3rd sp.s. c 4 s 728 (uncodified) is amended to read as follows:

TRANSPORTATION—WASHINGTON FEDERATION OF STATE EMPLOYEES

((~~Motor Vehicle Account—State Appropriation . . . . . $13,990,000~~
~~State Patrol Highway Account—State Appropriation . . . . . $1,093,000~~
~~State Patrol Highway Account—Federal Appropriation . . . . . $23,000~~
~~Puget Sound Ferry Operations Account—State Appropriation . . . . . $55,000~~
~~Highway Safety Account—State Appropriation . . . . . $2,273,000~~
~~Motorcycle Safety Education Account—State Appropriation . . . . . $41,000~~
~~State Wildlife Account—State Appropriation . . . . . $34,000~~
~~Ignition Interlock Device Revolving Account—State Appropriation . . . . . $9,000~~
~~Department of Licensing Services Account—State Appropriation . . . . . $74,000~~
~~Aeronautics Account—State Appropriation . . . . . $11,000~~
~~High Occupancy Toll Lanes Operations Account—State Appropriation . . . . . $8,000~~
~~State Route Number 520 Corridor Account—State Appropriation . . . . . $86,000~~
~~Multimodal Transportation Account—State Appropriation . . . . . $26,000~~
~~Tacoma Narrows Toll Bridge Account—State Appropriation . . . . . $42,000~~
~~TOTAL APPROPRIATION . . . . . $17,765,000~~

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

(1) An agreement has been reached between the governor and the Washington federation of state employees general government under the provisions of chapter 41.80 RCW for the 2015-2017 fiscal biennium. Funding is provided for employees funded in the 2015-2017 omnibus transportation appropriations act, a three percent general wage increase effective July 1, 2015, and a one and eight-tenths percent general wage increase or a one percent general wage increase plus twenty dollars per month, whichever is greater, effective ((~~January~~)) July 1, 2016. The agreement also includes and funding is provided for salary adjustments for targeted job classifications, assignment pay for targeted job classifications, hazard pay for designated night crews, and geographic pay for designed areas. Appropriations for state agencies are increased by the amounts specified in ((~~LEAP Transportation Document 713 - 2015T~~)) chapter . . ., Laws of 2016 (this act) to fund the provisions of this agreement.

(2) This section represents the results of the 2015-2017 collective bargaining process required under chapter 41.80 RCW. Provisions of the collective bargaining agreement contained in this section are described in general terms. Only major economic terms are included in the descriptions. These descriptions do not contain the complete contents of the agreement. The collective bargaining agreement contained in this section 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. Appropriations for state agencies are increased by the amounts specified in ((~~LEAP Transportation Document 713 - 2015T~~)) chapter . . ., Laws of 2016 (this act) to fund the provisions of this agreement.

Sec. 502. 2015 3rd sp.s. c 4 s 729 (uncodified) is amended to read as follows:

TRANSPORTATION—GENERAL WAGE INCREASE—STATE EMPLOYEES

((~~Motor Vehicle Account—State Appropriation . . . . . $5,854,000~~
~~State Patrol Highway Account—State Appropriation . . . . . $819,000~~
~~State Patrol Highway Account—Federal Appropriation . . . . . $22,000~~
~~State Patrol Highway Account—Private/Local Appropriation. . . . . $5,000~~
~~Puget Sound Ferry Operations Account—State Appropriation . . . . . $488,000~~
~~Highway Safety Account—State Appropriation . . . . . $696,000~~
~~Highway Safety Account—Federal Appropriation . . . . . $128,000~~
~~Motorcycle Safety Education Account—State Appropriation . . . . . $8,000~~
~~State Wildlife Account—State Appropriation . . . . . $21,000~~
~~Department of Licensing Services Account—State Appropriation. . . . . $13,000~~
~~Aeronautics Account—State Appropriation . . . . . $48,000~~
~~High Occupancy Toll Lanes Operations Account—State Appropriation. . . . . $15,000~~
~~State Route Number 520 Corridor Account—State Appropriation. . . . . $13,000~~
~~Multimodal Transportation Account—State Appropriation . . . . . $237,000~~
~~Tacoma Narrows Toll Bridge Account—State Appropriation . . . . . $42,000~~
~~Rural Arterial Trust Account—State Appropriation. . . . . $32,000~~
~~County Arterial Preservation Account—State Appropriation . . . . . $38,000~~
~~Transportation Improvement Account—State Appropriation . . . . . $87,000~~
~~TOTAL APPROPRIATION . . . . . $8,566,000~~

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

(1) Funding provided for state agency employee compensation for employees funded in the 2015-2017 omnibus transportation appropriations act who are not represented or who bargain under statutory authority other than chapter 41.80 or 47.64 RCW or RCW 41.56.473 or 41.56.475 is sufficient for general wage increases.

(2) Funding is provided for a three percent general wage increase effective July 1, 2015, for all classified employees, as specified in subsection (1) of this section. Also included are employees in the Washington management service and exempt employees under the jurisdiction of the director of the office of financial management. The appropriations are also sufficient to fund a three percent salary increase effective July 1, 2015, for executive, legislative, and judicial branch employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials.

(3) Funding is provided for a general wage increase of one and eight-tenths percent or a one percent general wage increase plus twenty dollars per month, whichever is greater, effective July 1, 2016, for all classified employees, as specified in subsection (1) of this section. Also included are employees in the Washington management service and exempt employees under the jurisdiction of the director of the office of financial management. The appropriations are also sufficient to fund a one and eight-tenths percent salary increase effective July 1, 2016, for executive, legislative, and judicial branch employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials. Appropriations for state agencies are increased by the amounts specified in ((~~LEAP Transportation Document 713 - 2015T~~)) chapter . . ., Laws of 2016 (this act) to fund the provisions of this section.

Sec. 503. 2015 3rd sp.s. c 4 s 730 (uncodified) is amended to read as follows:

TRANSPORTATION—WPEA GENERAL GOVERNMENT

((~~Motor Vehicle Account—State Appropriation . . . . . $64,000~~
~~State Patrol Highway Account—State Appropriation . . . . . $867,000~~
~~State Patrol Highway Account—Federal Appropriation . . . . . $103,000~~
~~TOTAL APPROPRIATION. . . . . $1,034,000~~

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

(1) An agreement has been reached between the governor and the Washington public employees association under the provisions of chapter 41.80 RCW for the 2015-2017 fiscal biennium and funded in the 2015-2017 omnibus transportation appropriations act. Funding is provided for employees funded in the 2015-2017 omnibus transportation appropriations act, a three percent general wage increase effective July 1, 2015, and a one and eight-tenths percent general wage increase or a one percent general wage increase plus twenty dollars per month, whichever is greater, effective ((~~January~~)) July 1, 2016. Appropriations for state agencies are increased by the amounts specified in ((~~LEAP Transportation Document 713 - 2015T~~)) chapter . . ., Laws of 2016 (this act) to fund the provisions of this agreement.

(2) This section represents the results of the 2015-2017 collective bargaining process required under chapter 41.80 RCW. Provisions of the collective bargaining agreement contained in this section are described in general terms. Only major economic terms are included in the descriptions. These descriptions do not contain the complete contents of the agreement. The collective bargaining agreement contained in this section 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. Appropriations for state agencies are increased by the amounts specified in ((~~LEAP Transportation Document 713 - 2015T~~)) chapter . . ., Laws of 2016 (this act) to fund the provisions of this agreement.

Sec. 504. 2015 3rd sp.s. c 4 s 731 (uncodified) is amended to read as follows:

TRANSPORTATION—THE COALITION OF UNIONS AGREEMENT

((~~State Patrol Highway Account—State Appropriation . . . . . $181,000~~

~~The appropriation in this section is subject to the following conditions and limitations:~~)) Appropriations for state agencies are increased by the amounts specified in ((~~LEAP Transportation Document 713 - 2015T~~)) chapter . . ., Laws of 2016 (this act) to fund the provisions of this agreement.

Sec. 505. 2015 3rd sp.s. c 4 s 732 (uncodified) is amended to read as follows:

TRANSPORTATION—TARGETED COMPENSATION INCREASES—NONREPRESENTED JOB CLASS SPECIFIC

((~~Motor Vehicle Account—State Appropriation . . . . . $36,000~~
~~State Patrol Highway Account—State Appropriation . . . . . $26,000~~
~~State Patrol Highway Account—Federal Appropriation . . . . . $14,000~~
~~Puget Sound Ferry Operations Account—State Appropriation . . . . . $12,000~~
~~Highway Safety Account—Federal Appropriation . . . . . $4,000~~
~~Aeronautics Account—State Appropriation . . . . . $4,000~~
~~Tacoma Narrows Toll Bridge Account—State Appropriation . . . . . $8,000~~
~~Transportation Improvement Account—State Appropriation . . . . . $4,000~~
~~TOTAL APPROPRIATION . . . . . $108,000~~

~~The appropriations in this section are subject to the following conditions and limitations:~~)) Funding is provided for salary adjustments for targeted job classifications for employees funded in the 2015-2017 omnibus transportation appropriations act, as specified by the office of financial management, of classified state employees, except those represented by a collective bargaining unit under chapters 41.80 and 47.64 RCW and RCW 41.56.473 and 41.56.475. Appropriations for state agencies are increased by the amounts specified in ((~~LEAP Transportation Document 713 - 2015T~~)) chapter . . ., Laws of 2016 (this act) to fund the provisions of this agreement.

Sec. 506. 2015 3rd sp.s. c 4 s 733 (uncodified) is amended to read as follows:

TRANSPORTATION—COLLECTIVE BARGAINING AGREEMENTS—PTE LOCAL 17

((~~State Patrol Highway Account—State Appropriation . . . . . $3,973,000~~
~~State Patrol Highway Account—Federal Appropriation . . . . . $361,000~~
~~State Patrol Highway Account—Private/Local Appropriation . . . . . $192,000~~
~~Motor Vehicle Account—State Appropriation . . . . . $1,567,000~~
~~Highway Safety Account—State Appropriation . . . . . $1,019,000~~
~~Aeronautics Account—State Appropriation . . . . . $7,000~~
~~Puget Sound Ferry Operations Account—State Appropriation . . . . . $42,000~~
~~State Route Number 520 Corridor Account—State Appropriation . . . . . $5,000~~
~~Multimodal Transportation Account—State Appropriation . . . . . $97,000~~
~~Tacoma Narrows Toll Bridge Account—State Appropriation . . . . . $16,000~~
~~TOTAL APPROPRIATION . . . . . $7,279,000~~

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

(1) An agreement has been reached between the governor and the professional and technical employees local seventeen under chapter 41.80 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 or a one percent general wage increase plus a flat twenty dollars per month, whichever is greater, effective July 1, 2016. The agreement also includes targeted job classification specific increases.

(2) This section represents the results of the 2015-2017 collective bargaining process required under chapter 41.80 RCW. Provisions of the collective bargaining agreement contained in this section are described in general terms. Only major economic terms are included in the descriptions. These descriptions do not contain the complete contents of the agreement. The collective bargaining agreement contained in this section 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. Appropriations for state agencies are increased by the amounts specified in ((~~LEAP Transportation Document 713 - 2015T~~)) chapter . . ., Laws of 2016 (this act) to fund the provisions of this agreement.

Sec. 507. 2015 3rd sp.s. c 4 s 734 (uncodified) is amended to read as follows:

TRANSPORTATION—COMPENSATION—REPRESENTED EMPLOYEES—INSURANCE BENEFITS

((~~Motor Vehicle Account—State Appropriation . . . . . ($771,000)~~
~~State Patrol Highway Account—State Appropriation . . . . . ($481,000)~~
~~State Patrol Highway Account—Federal Appropriation . . . . . ($11,000)~~
~~State Patrol Highway Account—Private/Local Appropriation. . . . . ($5,000)~~
~~Motorcycle Safety Education Account—State Appropriation. . . . . ($3,000)~~
~~High Occupancy Toll Lanes Operations Account—State Appropriation. . . . . ($1,000)~~
~~State Wildlife Account—State Appropriation . . . . . ($3,000)~~
~~Highway Safety Account—State Appropriation . . . . . ($263,000)~~
~~Puget Sound Ferry Operations Account—State Appropriation. . . . . ($471,000)~~
~~State Route Number 520 Corridor Account—State Appropriation. . . . . ($4,000)~~
~~Department of Licensing Services Account—State Appropriation. . . . . ($3,000)~~
~~Multimodal Transportation Account—State Appropriation. . . . . ($6,000)~~
~~Tacoma Narrows Toll Bridge Account—State Appropriation. . . . . ($3,000)~~
~~TOTAL APPROPRIATION. . . . . ($2,025,000)~~

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

Collective bargaining agreements were reached for the 2015-2017 fiscal biennium between the governor and the employee representatives under the provisions of chapters 41.80 and 41.56 RCW. Appropriations in this act for state agencies are sufficient to implement the provisions of the 2015-2017 collective bargaining agreements and are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan must not exceed $840 per eligible employee for fiscal year 2016. For fiscal year 2017, the monthly employer funding rate must not exceed $894 per eligible employee.

(b) Except as provided by the parties' health care agreement, in order to achieve the level of funding provided for health benefits, the public employees' benefits board must require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or other changes to benefits consistent with RCW 41.05.065. The board shall collect a twenty-five dollar per month surcharge payment from members who use tobacco products and a surcharge payment of not less than fifty dollars per month from members who cover a spouse or domestic partner where the spouse or domestic partner has chosen not to enroll in another employer-based group health insurance that has benefits and premiums with an actuarial value of not less than 95 percent of the actuarial value of the public employees' benefits board plan with the largest enrollment. The surcharge payments shall be collected in addition to the member premium payment.

(c) The health care authority must deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts must not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, must provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. For calendar years 2016 and 2017, the subsidy must be up to $150.00 per month. Appropriations for state agencies are increased by the amounts specified in ((~~LEAP Transportation Document 713 - 2015T~~)) chapter . . ., Laws of 2016 (this act) to fund the provisions of this agreement.

(3) All savings resulting from reduced claim costs or other factors identified after June 1, 2015, must be reserved for funding employee health benefits in the 2017-2019 fiscal biennium.

Sec. 508. 2015 3rd sp.s. c 4 s 735 (uncodified) is amended to read as follows:

TRANSPORTATION—COMPENSATION—NONREPRESENTED EMPLOYEES—INSURANCE BENEFITS

((~~Aeronautics Account—State Appropriation . . . . . ($3,000)~~

~~Motor Vehicle Account—State Appropriation. . . . . ($241,000)~~
~~State Patrol Highway Account—State Appropriation . . . . . ($55,000)~~
~~High Occupancy Toll Lanes Operations Account—State Appropriation. . . . . ($1,000)~~
~~Rural Arterial Trust Account—State Appropriation. . . . . ($1,000)~~
~~Highway Safety Account—State Appropriation . . . . . ($29,000)~~
~~Highway Safety Account—Federal Appropriation . . . . . ($7,000)~~
~~Puget Sound Ferry Operations Account—State Appropriation. . . . . ($18,000)~~
~~Transportation Improvement Account—State Appropriation. . . . . ($3,000)~~
~~State Route Number 520 Corridor Account—State Appropriation. . . . . ($1,000)~~
~~County Arterial Preservation Account—State Appropriation. . . . . ($1,000)~~
~~Department of Licensing Services Account—State Appropriation. . . . . ($1,000)~~
~~Multimodal Transportation Account—State Appropriation. . . . . ($8,000)~~
~~Tacoma Narrows Toll Bridge Account—State Appropriation. . . . . ($1,000)~~
~~TOTAL APPROPRIATION. . . . . ($370,000)~~

~~The appropriations in this section are subject to the following conditions and limitations:~~)) Appropriations for state agencies in this act are sufficient for nonrepresented state employee health benefits for state agencies, including institutions of higher education, and are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan must not exceed $840 per eligible employee for fiscal year 2016. For fiscal year 2017, the monthly employer funding rate must not exceed $894 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board must require any of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or other changes to benefits consistent with RCW 41.05.065. The board shall collect a twenty-five dollar per month surcharge payment from members who use tobacco products and a surcharge payment of not less than fifty dollars per month from members who cover a spouse or domestic partner where the spouse or domestic partner has chosen not to enroll in another employer-based group health insurance that has benefits and premiums with an actuarial value of not less than 95 percent of the actuarial value of the public employees' benefits board plan with the largest enrollment. The surcharge payments shall be collected in addition to the member premium payment.

(c) The health care authority must deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of

prior uniform medical plan claims payments into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts must not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, must provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. For calendar years 2016 and 2017, the subsidy must be up to $150.00 per month. Appropriations for state agencies are increased by the amounts specified in ((~~LEAP Transportation Document 713 - 2015T~~)) chapter . . ., Laws of 2016 (this act) to fund the provisions of this agreement.

(3) All savings resulting from reduced claim costs or other factors identified after June 1, 2015, must be reserved for funding employee health benefits in the 2017-2019 fiscal biennium.

IMPLEMENTING PROVISIONS

Sec. 601. 2015 1st sp.s. c 10 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 ((~~2015-1~~)) 2016-1 as developed ((~~May 26, 2015~~)) March 7, 2016, which consists of a list of specific projects by fund source and amount over a ((~~ten-year~~)) sixteen-year period. Current fiscal biennium funding for each project is a line-item appropriation, while the outer year funding allocations represent a ((~~ten-year~~)) sixteen-year plan. The department is expected to use the flexibility provided in this section to assist in the delivery and completion of all transportation partnership account and transportation 2003 account (nickel account) projects on the LEAP transportation documents referenced in this act. However, this section does not apply to the I-5/Columbia River Crossing project (400506A). For the 2015-2017 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects funded with transportation 2003 account (nickel account) appropriations, or transportation partnership account appropriations, in order to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

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

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

(c) Each transfer between projects may only occur if the director of financial management finds that any resulting change will not hinder the completion of the projects as approved by the legislature. Until the legislature reconvenes to consider the 2016 supplemental omnibus transportation appropriations act, any unexpended 2013-2015 appropriation balance as approved by the office of financial management, in consultation with the legislative staff of the house of representatives and senate transportation committees, may be considered when transferring funds between projects;

(d) Transfers from a project may be made if the funds appropriated to the project are in excess of the amount needed to complete the project;

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

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

(g) Transfers between projects may be made, without the approval of the director of the office of financial management, by the department of transportation until the transfer amount by project exceeds two hundred fifty thousand dollars, or ten percent of the total project, whichever is less. These transfers must be reported quarterly to the director of financial management and the chairs of the house of representatives and senate transportation committees.

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

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

(4) The office of financial management shall document approved transfers and schedule changes in the transportation executive information system, compare changes to the legislative 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.

Sec. 602. 2015 3rd sp.s. c 43 s 502 (uncodified) is amended to read as follows:

(1) By November 15, 2015, and annually thereafter, the department of transportation must report on amounts expended to benefit transit, bicycle, or pedestrian elements within all connecting Washington projects in programs I, P, and Z identified in LEAP Transportation Document ((~~2015 NL-1~~)) 2016-2 ALL PROJECTS as developed ((~~June 28, 2015~~)) March 7, 2016. The report must address each modal category separately and identify if eighteenth amendment protected funds have been used and, if not, the source of funding.

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

NEW SECTION. **Sec. 603.** A new section is added to 2015 1st sp.s. c 10 (uncodified) to read as follows:

BELATED CLAIMS

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

MISCELLANEOUS 2015-2017 FISCAL BIENNIUM

Sec. 701. RCW 81.53.281 and 2014 c 222 s 702 are each amended to read as follows:

There is hereby created in the state treasury a "grade crossing protective fund" to carry out the provisions of RCW 81.53.261, 81.53.271, 81.53.281,

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

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

NEW SECTION. **Sec. 702.** The following acts or parts of acts are each repealed:

(1) 2015 3rd sp.s. c 43 s 201 (uncodified);
(2) 2015 3rd sp.s. c 43 s 202 (uncodified);
(3) 2015 3rd sp.s. c 43 s 203 (uncodified);
(4) 2015 3rd sp.s. c 43 s 204 (uncodified);
(5) 2015 3rd sp.s. c 43 s 205 (uncodified);
(6) 2015 3rd sp.s. c 43 s 206 (uncodified);
(7) 2015 3rd sp.s. c 43 s 207 (uncodified);
(8) 2015 3rd sp.s. c 43 s 301 (uncodified);
(9) 2015 3rd sp.s. c 43 s 302 (uncodified);
(10) 2015 3rd sp.s. c 43 s 303 (uncodified);
(11) 2015 3rd sp.s. c 43 s 304 (uncodified);
(12) 2015 3rd sp.s. c 43 s 305 (uncodified);
(13) 2015 3rd sp.s. c 43 s 306 (uncodified);
(14) 2015 3rd sp.s. c 43 s 307 (uncodified);
(15) 2015 3rd sp.s. c 43 s 308 (uncodified);
(16) 2015 3rd sp.s. c 43 s 309 (uncodified); and
(17) 2015 3rd sp.s. c 43 s 401 (uncodified).

MISCELLANEOUS

NEW SECTION. **Sec. 801.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 802.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 9, 2016.

Passed by the Senate March 8, 2016.

Approved by the Governor March 25, 2016, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 25, 2016.

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

"I am returning herewith, without my approval as to Sections 214(2), 215(8), 218(6), and 302(13), Engrossed Substitute House Bill No. 2524 entitled:

"AN ACT Relating to transportation funding and appropriations."

Section 214(2), pages 28-29, Department of Transportation, Economic Partnerships

This proviso directs the Department of Transportation's Economic Partnerships Program to study and report to the transportation committees of the Legislature on the feasibility of contracting with the private sector to collect tolls and provide services to drivers crossing the Tacoma Narrows Bridge. No funding was provided for the study, and the in-depth analysis and research required for such a study is beyond the capacity of the current two program staff. The program is already consulting with the department's Tolling Division on its ongoing efforts to reduce costs associated with the Tacoma Narrows Bridge consistent with previous legislative direction in the underlying biennial budget. The Tolling Division will report on this work prior to the 2017 legislative session. For these reasons, I have vetoed Section 214(2).

Section 215(8), page 30, Department of Transportation, Highway Maintenance

Section 215(8) requires the department to use $100,000 of existing resources to submit a request for proposals as part of a pilot project to explore the use of rotary auger ditch cleaning and reshaping service technology. No new funding was provided for the department to conduct this activity and the proviso represents a cut to the current maintenance budget. For these reasons, I have vetoed Section 215(8).

Section 218(6), pages 35-36, Department of Transportation, Transportation Planning, Data, and Research

This proviso directs the department within existing resources to report on state options for addressing the removal of the Eastside Freight railroad line, which runs from the city of Snohomish to the city of Woodinville. The state has no jurisdiction over the preservation and maintenance of this rail corridor and has no jurisdiction over future freight rail service or projects underway or planned for the corridor. For these reasons, I have vetoed Section 218(6).

Section 302(13), page 45, Washington State Patrol, Whiskey Ridge Radio Communications Site

The $80,000 appropriated for this project is insufficient and less than half of the agency request amount of $175,000, which was also included in my budget proposal. The proviso language prohibiting the use of other funds to complete the project also unduly restricts the agency's ability to manage its appropriations. The Washington State Patrol will not use the funding provided for this project and will instead look at other options to address the need for a shelter at this site, including a potential future budget request. For these reasons, I have vetoed Section 302(13).

For these reasons I have vetoed Sections 214(2), 215(8), 218(6), and 302(13) of Engrossed Substitute House Bill No. 2524.

With the exception of Sections 214(2), 215(8), 218(6), and 302(13), Engrossed Substitute House Bill No. 2524 is approved."

CHAPTER 15

[Substitute House Bill 1830]

SPECIAL LICENSE PLATE--WRESTLING

AN ACT Relating to Washington state wrestling special license plates; amending RCW 46.68.420; reenacting and amending RCW 46.18.200, 46.17.220, and 46.18.060; adding a new section to chapter 46.04 RCW; and providing an effective date.

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

Sec. 1. RCW 46.18.200 and 2014 c 77 s 1 and 2014 c 6 s 1 are each reenacted and amended to read as follows:

(1) Special license plate series reviewed and approved by the department:

(a) May be issued in lieu of standard issue or personalized license plates for vehicles required to display one and two license plates unless otherwise specified;

(b) Must be issued under terms and conditions established by the department;

(c) Must not be issued for vehicles registered under chapter 46.87 RCW; and

(d) Must display a symbol or artwork approved by the department.

(2) The department approves and shall issue the following special license plates:

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
4-H	Displays the "4-H" logo.
Armed forces collection	Recognizes the contribution of veterans, active duty military personnel, reservists, and members of the national guard, and includes six separate designs, each containing a symbol representing a different branch of the armed forces to include army, navy, air force, marine corps, coast guard, and national guard.
Breast cancer awareness	Displays a pink ribbon symbolizing breast cancer awareness.

Endangered wildlife	Displays a symbol or artwork symbolizing endangered wildlife in Washington state.
Gonzaga University alumni association	Recognizes the Gonzaga University alumni association.
Helping kids speak	Recognizes an organization that supports programs that provide no-cost speech pathology programs to children.
Keep kids safe	Recognizes efforts to prevent child abuse and neglect.
Law enforcement memorial	Honors law enforcement officers in Washington killed in the line of duty.
Music matters	Displays the "Music Matters" logo.
Professional firefighters and paramedics	Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.
Seattle Seahawks	Displays the "Seattle Seahawks" logo.
Seattle Sounders FC	Displays the "Seattle Sounders FC" logo.
Seattle University	Recognizes Seattle University.
Share the road	Recognizes an organization that promotes bicycle safety and awareness education.
Ski & ride Washington	Recognizes the Washington snowsports industry.
State flower	Recognizes the Washington state flower.
Volunteer firefighters	Recognizes volunteer firefighters.
Washington lighthouses	Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.
Washington state parks	Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.
Washington state wrestling	Promotes and supports college wrestling in the state of Washington.
Washington's national park fund	Builds awareness of Washington's national parks and supports priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.

Washington's wildlife collection	Recognizes Washington's wildlife.
We love our pets	Recognizes an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets to reduce pet overpopulation.
Wild on Washington	Symbolizes wildlife viewing in Washington state.

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

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

Sec. 2. RCW 46.17.220 and 2014 c 77 s 2 and 2014 c 6 s 2 are each reenacted and amended to read as follows:

(1) In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter 46.16A RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

PLATE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(a) 4-H	$ 40.00	$ 30.00	RCW 46.68.420
(b) Amateur radio license	$ 5.00	N/A	RCW 46.68.070
(c) Armed forces	$ 40.00	$ 30.00	RCW 46.68.425
(d) Baseball stadium	$ 40.00	$ 30.00	Subsection (2) of this section
(e) Breast cancer awareness	$ 40.00	$ 30.00	RCW 46.68.425
(f) Collector vehicle	$ 35.00	N/A	RCW 46.68.030
(g) Collegiate	$ 40.00	$ 30.00	RCW 46.68.430
(h) Endangered wildlife	$ 40.00	$ 30.00	RCW 46.68.425
(i) Gonzaga University alumni association	$ 40.00	$ 30.00	RCW 46.68.420
(j) Helping kids speak	$ 40.00	$ 30.00	RCW 46.68.420

(k) Horseless carriage	$ 35.00	N/A	RCW 46.68.030
(l) Keep kids safe	$ 45.00	$ 30.00	RCW 46.68.425
(m) Law enforcement memorial	$ 40.00	$ 30.00	RCW 46.68.420
(n) Military affiliate radio system	$ 5.00	N/A	RCW 46.68.070
(o) Music matters	$ 40.00	$ 30.00	RCW 46.68.420
(p) Professional firefighters and paramedics	$ 40.00	$ 30.00	RCW 46.68.420
(q) Ride share	$ 25.00	N/A	RCW 46.68.030
(r) Seattle Seahawks	$ 40.00	$ 30.00	RCW 46.68.420
(s) Seattle Sounders FC	$ 40.00	$ 30.00	RCW 46.68.420
(t) Seattle University	$ 40.00	$ 30.00	RCW 46.68.420
(u) Share the road	$ 40.00	$ 30.00	RCW 46.68.420
(v) Ski & ride Washington	$ 40.00	$ 30.00	RCW 46.68.420
(w) Square dancer	$ 40.00	N/A	RCW 46.68.070
(x) State flower	$ 40.00	$ 30.00	RCW 46.68.420
(y) Volunteer firefighters	$ 40.00	$ 30.00	RCW 46.68.420
(z) Washington lighthouses	$ 40.00	$ 30.00	RCW 46.68.420
(aa) Washington state parks	$ 40.00	$ 30.00	RCW 46.68.425
(bb) Washington state wrestling	$ 40.00	$ 30.00	RCW 46.68.420
(cc) Washington's national parks	$ 40.00	$ 30.00	RCW 46.68.420
(((~~ee~~))) (dd) Washington's wildlife collection	$ 40.00	$ 30.00	RCW 46.68.425
(((~~dd~~))) (ee) We love our pets	$ 40.00	$ 30.00	RCW 46.68.420
(((~~ee~~))) (ff) Wild on Washington	$ 40.00	$ 30.00	RCW 46.68.425

(2) After deducting administration and collection expenses for the sale of baseball stadium license plates, the remaining proceeds must be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

Sec. 3. RCW 46.68.420 and 2014 c 6 s 3 are each amended to read as follows:

(1) The department shall:

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

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fee amounts for each special license plate to the following appropriate account as created in this section in the custody of the state treasurer:

ACCOUNT	CONDITIONS FOR USE OF FUNDS
4-H programs	Support Washington 4-H programs
Gonzaga University alumni association	Scholarship funds to needy and qualified students attending or planning to attend Gonzaga University
Helping kids speak	Provide free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development
Law enforcement memorial	Provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers
Lighthouse environmental programs	Support selected Washington state lighthouses that are accessible to the public and staffed by volunteers; provide environmental education programs; provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration; encourage and support interpretive programs by lighthouse docents
Music matters awareness	Promote music education in schools throughout Washington
Seattle Seahawks	Provide funds to InvestED to encourage secondary students who have economic needs to stay in school, return to school, or get involved within their learning community

Seattle Sounders FC	Provide funds to Washington state mentors and the association of Washington generals created in RCW 43.15.030 in the following manner: (a) Seventy percent and the remaining proceeds, if any, to Washington state mentors, to increase the number of mentors in the state by offering mentoring grants throughout Washington state that foster positive youth development and academic success, with up to twenty percent of these proceeds authorized for program administration costs; and (b) up to thirty percent, not to exceed forty-thousand dollars annually as adjusted for inflation by the office of financial management, to the association of Washington generals, to develop Washington state educational, veterans, international relations, and civics projects and to recognize the outstanding public service of individuals or groups in the state of Washington
Seattle University	Fund scholarships for students attending or planning to attend Seattle University
Share the road	Promote bicycle safety and awareness education in communities throughout Washington
Ski & ride Washington	Promote winter snowsports, such as skiing and snowboarding, and related programs, such as ski and ride safety programs, underprivileged youth ski and ride programs, and active, healthy lifestyle programs
State flower	Support Meerkerk Rhododendron Gardens and provide for grants to other qualified nonprofit organizations' efforts to preserve rhododendrons
Volunteer firefighters	Receive and disseminate funds for purposes on behalf of volunteer firefighters, their families, and others deemed in need
Washington state wrestling	Provide funds to the Washington state wrestling foundation to fund new and existing college wrestling programs

Washington state council of firefighters benevolent fund	Receive and disseminate funds for charitable purposes on behalf of members of the Washington state council of firefighters, their families, and others deemed in need
Washington's national park fund	Build awareness of Washington's national parks and support priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks
We love our pets	Support and enable the Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington state pets in order to reduce pet population

(3) Only the director or the director's designee may authorize expenditures from the accounts described in subsection (2) of this section. The accounts are subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) Funds in the special license plate accounts described in subsection (2) of this section must be disbursed subject to the conditions described in subsection (2) of this section and under contract between the department and qualified nonprofit organizations that provide the services described in subsection (2) of this section.

(5) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation operating in Washington that has received a determination of tax exempt status under 26 U.S.C. Sec. 501(c)(3). The qualified nonprofit organization must meet all the requirements under RCW 46.18.100(1).

Sec. 4. RCW 46.18.060 and 2014 c 77 s 5 and 2014 c 6 s 4 are each reenacted and amended to read as follows:

(1) The department must review and either approve or reject special license plate applications submitted by sponsoring organizations.

(2) Duties of the department include, but are not limited to, the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the joint transportation committee;

(b) Report annually to the joint transportation committee on the special license plate applications that were considered by the department;

(c) Issue approval and rejection notification letters to sponsoring organizations, the executive committee of the joint transportation committee, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application; and

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The department may submit a

recommendation to discontinue a special plate series to the executive committee of the joint transportation committee.

(3) In order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until July 1, 2015. During this period of time, the department is prohibited from accepting, reviewing, processing, or approving any applications. Additionally, a special license plate may not be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the former special license plate review board before February 15, 2005.

(4) The limitations under subsection (3) of this section do not apply to the following special license plates:

(a) 4-H license plates created under RCW 46.18.200;

(b) Breast cancer awareness license plates created under RCW 46.18.200;

(c) Gold star license plates created under RCW 46.18.245;

(d) Music Matters license plates created under RCW 46.18.200;

(e) Seattle Seahawks license plates created under RCW 46.18.200;

(f) Seattle Sounders FC license plates created under RCW 46.18.200;

(g) Seattle University license plates created under RCW 46.18.200;

(h) State flower license plates created under RCW 46.18.200;

(i) Volunteer firefighter license plates created under RCW 46.18.200;

(j) Washington state wrestling license plates created under RCW 46.18.200.

NEW SECTION. **Sec. 5.** A new section is added to chapter 46.04 RCW to read as follows:

"Washington state wrestling license plates" means special license plates issued under RCW 46.18.200 that display a symbol or artwork recognizing Washington state wrestling.

NEW SECTION. **Sec. 6.** This act takes effect January 1, 2017.

Passed by the House February 12, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 16

[House Bill 2262]

SPECIAL LICENSE PLATE--TENNIS

AN ACT Relating to Washington tennis special license plates; amending RCW 46.68.420; reenacting and amending RCW 46.18.200, 46.17.220, and 46.18.060; adding a new section to chapter 46.04 RCW; and providing an effective date.

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

Sec. 1. RCW 46.18.200 and 2014 c 77 s 1 and 2014 c 6 s 1 are each reenacted and amended to read as follows:

(1) Special license plate series reviewed and approved by the department:

(a) May be issued in lieu of standard issue or personalized license plates for vehicles required to display one and two license plates unless otherwise specified;

(b) Must be issued under terms and conditions established by the department;

(c) Must not be issued for vehicles registered under chapter 46.87 RCW; and

(d) Must display a symbol or artwork approved by the department.

(2) The department approves and shall issue the following special license plates:

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
4-H	Displays the "4-H" logo.
Armed forces collection	Recognizes the contribution of veterans, active duty military personnel, reservists, and members of the national guard, and includes six separate designs, each containing a symbol representing a different branch of the armed forces to include army, navy, air force, marine corps, coast guard, and national guard.
Breast cancer awareness	Displays a pink ribbon symbolizing breast cancer awareness.
Endangered wildlife	Displays a symbol or artwork symbolizing endangered wildlife in Washington state.
Gonzaga University alumni association	Recognizes the Gonzaga University alumni association.
Helping kids speak	Recognizes an organization that supports programs that provide no-cost speech pathology programs to children.
Keep kids safe	Recognizes efforts to prevent child abuse and neglect.
Law enforcement memorial	Honors law enforcement officers in Washington killed in the line of duty.
Music matters	Displays the "Music Matters" logo.
Professional firefighters and paramedics	Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.
Seattle Seahawks	Displays the "Seattle Seahawks" logo.
Seattle Sounders FC	Displays the "Seattle Sounders FC" logo.
Seattle University	Recognizes Seattle University.
Share the road	Recognizes an organization that promotes bicycle safety and awareness education.
Ski & ride Washington	Recognizes the Washington snowsports industry.

State flower	Recognizes the Washington state flower.
Volunteer firefighters	Recognizes volunteer firefighters.
Washington lighthouses	Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.
Washington state parks	Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.
Washington tennis	Builds awareness and year-round opportunities for tennis in Washington state. Displays a symbol or artwork recognizing tennis in Washington state.
Washington's national park fund	Builds awareness of Washington's national parks and supports priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.
Washington's wildlife collection	Recognizes Washington's wildlife.
We love our pets	Recognizes an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets to reduce pet overpopulation.
Wild on Washington	Symbolizes wildlife viewing in Washington state.

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

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

maximum of two sets per applicant, for their personal vehicles. If the volunteer firefighter is convicted of a violation of RCW 46.61.502 or a felony, the license plates must be surrendered upon conviction.

Sec. 2. RCW 46.17.220 and 2014 c 77 s 2 and 2014 c 6 s 2 are each reenacted and amended to read as follows:

(1) In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter 46.16A RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

PLATE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(a) 4-H	$ 40.00	$ 30.00	RCW 46.68.420
(b) Amateur radio license	$ 5.00	N/A	RCW 46.68.070
(c) Armed forces	$ 40.00	$ 30.00	RCW 46.68.425
(d) Baseball stadium	$ 40.00	$ 30.00	Subsection (2) of this section
(e) Breast cancer awareness	$ 40.00	$ 30.00	RCW 46.68.425
(f) Collector vehicle	$ 35.00	N/A	RCW 46.68.030
(g) Collegiate	$ 40.00	$ 30.00	RCW 46.68.430
(h) Endangered wildlife	$ 40.00	$ 30.00	RCW 46.68.425
(i) Gonzaga University alumni association	$ 40.00	$ 30.00	RCW 46.68.420
(j) Helping kids speak	$ 40.00	$ 30.00	RCW 46.68.420
(k) Horseless carriage	$ 35.00	N/A	RCW 46.68.030
(l) Keep kids safe	$ 45.00	$ 30.00	RCW 46.68.425
(m) Law enforcement memorial	$ 40.00	$ 30.00	RCW 46.68.420
(n) Military affiliate radio system	$ 5.00	N/A	RCW 46.68.070
(o) Music matters	$ 40.00	$ 30.00	RCW 46.68.420
(p) Professional firefighters and paramedics	$ 40.00	$ 30.00	RCW 46.68.420
(q) Ride share	$ 25.00	N/A	RCW 46.68.030
(r) Seattle Seahawks	$ 40.00	$ 30.00	RCW 46.68.420
(s) Seattle Sounders FC	$ 40.00	$ 30.00	RCW 46.68.420
(t) Seattle University	$ 40.00	$ 30.00	RCW 46.68.420
(u) Share the road	$ 40.00	$ 30.00	RCW 46.68.420
(v) Ski & ride Washington	$ 40.00	$ 30.00	RCW 46.68.420
(w) Square dancer	$ 40.00	N/A	RCW 46.68.070
(x) State flower	$ 40.00	$ 30.00	RCW 46.68.420
(y) Volunteer firefighters	$ 40.00	$ 30.00	RCW 46.68.420
(z) Washington lighthouses	$ 40.00	$ 30.00	RCW 46.68.420
(aa) Washington state parks	$ 40.00	$ 30.00	RCW 46.68.425
(bb) Washington tennis	$ 40.00	$ 30.00	RCW 46.68.420
(cc) Washington's national parks	$ 40.00	$ 30.00	RCW 46.68.420

(((~~(ee)~~))) (dd) Washington's wildlife collection	$ 40.00	$ 30.00	RCW 46.68.425
(((~~(dd)~~))) (ee) We love our pets	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(ee)~~))) (ff) Wild on Washington	$ 40.00	$ 30.00	RCW 46.68.425

(2) After deducting administration and collection expenses for the sale of baseball stadium license plates, the remaining proceeds must be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

Sec. 3. RCW 46.68.420 and 2014 c 6 s 3 are each amended to read as follows:

(1) The department shall:

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

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fee amounts for each special license plate to the following appropriate account as created in this section in the custody of the state treasurer:

ACCOUNT	CONDITIONS FOR USE OF FUNDS
4-H programs	Support Washington 4-H programs
Gonzaga University alumni association	Scholarship funds to needy and qualified students attending or planning to attend Gonzaga University
Helping kids speak	Provide free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development
Law enforcement memorial	Provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers

Lighthouse environmental programs	Support selected Washington state lighthouses that are accessible to the public and staffed by volunteers; provide environmental education programs; provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration; encourage and support interpretive programs by lighthouse docents
Music matters awareness	Promote music education in schools throughout Washington
Seattle Seahawks	Provide funds to InvestED to encourage secondary students who have economic needs to stay in school, return to school, or get involved within their learning community
Seattle Sounders FC	Provide funds to Washington state mentors and the association of Washington generals created in RCW 43.15.030 in the following manner: (a) Seventy percent and the remaining proceeds, if any, to Washington state mentors, to increase the number of mentors in the state by offering mentoring grants throughout Washington state that foster positive youth development and academic success, with up to twenty percent of these proceeds authorized for program administration costs; and (b) up to thirty percent, not to exceed forty-thousand dollars annually as adjusted for inflation by the office of financial management, to the association of Washington generals, to develop Washington state educational, veterans, international relations, and civics projects and to recognize the outstanding public service of individuals or groups in the state of Washington
Seattle University	Fund scholarships for students attending or planning to attend Seattle University
Share the road	Promote bicycle safety and awareness education in communities throughout Washington
Ski & ride Washington	Promote winter snowsports, such as skiing and snowboarding, and related programs, such as ski and ride safety programs, underprivileged youth ski and ride programs, and active, healthy lifestyle programs

State flower	Support Meerkerk Rhododendron Gardens and provide for grants to other qualified nonprofit organizations' efforts to preserve rhododendrons
Volunteer firefighters	Receive and disseminate funds for purposes on behalf of volunteer firefighters, their families, and others deemed in need
Washington state council of firefighters benevolent fund	Receive and disseminate funds for charitable purposes on behalf of members of the Washington state council of firefighters, their families, and others deemed in need
Washington tennis	Provide funds to cities to assist in the construction and maintenance of a public tennis facility with at least four indoor tennis courts. A city is eligible for construction funds if the city does not already have a public or private facility with at least four indoor tennis courts. Funds for construction must first be made available to the most populous eligible city, according to the most recent census, for a time period not to exceed five years after the effective date of this section. After the five-year time period, the funds for construction must be made available to the next most populous eligible city. Funds for the maintenance of a public tennis facility with at least four indoor tennis courts must first be made available to the first eligible city that utilizes funds for construction provided by this act.
Washington's national park fund	Build awareness of Washington's national parks and support priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks
We love our pets	Support and enable the Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington state pets in order to reduce pet population

(3) Only the director or the director's designee may authorize expenditures from the accounts described in subsection (2) of this section. The accounts are subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) Funds in the special license plate accounts described in subsection (2) of this section must be disbursed subject to the conditions described in subsection (2) of this section and under contract between the department and qualified nonprofit organizations that provide the services described in subsection (2) of this section.

(5) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation operating in Washington that has received a determination of tax exempt status under 26 U.S.C. Sec. 501(c)(3). The qualified nonprofit organization must meet all the requirements under RCW 46.18.100(1).

Sec. 4. RCW 46.18.060 and 2014 c 77 s 5 and 2014 c 6 s 4 are each reenacted and amended to read as follows:

(1) The department must review and either approve or reject special license plate applications submitted by sponsoring organizations.

(2) Duties of the department include, but are not limited to, the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the joint transportation committee;

(b) Report annually to the joint transportation committee on the special license plate applications that were considered by the department;

(c) Issue approval and rejection notification letters to sponsoring organizations, the executive committee of the joint transportation committee, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application; and

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The department may submit a recommendation to discontinue a special plate series to the executive committee of the joint transportation committee.

(3) In order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until July 1, 2015. During this period of time, the department is prohibited from accepting, reviewing, processing, or approving any applications. Additionally, a special license plate may not be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the former special license plate review board before February 15, 2005.

(4) The limitations under subsection (3) of this section do not apply to the following special license plates:

(a) 4-H license plates created under RCW 46.18.200;

(b) Breast cancer awareness license plates created under RCW 46.18.200;

(c) Gold star license plates created under RCW 46.18.245;

(d) Music Matters license plates created under RCW 46.18.200;

(e) Seattle Seahawks license plates created under RCW 46.18.200;

(f) Seattle Sounders FC license plates created under RCW 46.18.200;

(g) Seattle University license plates created under RCW 46.18.200;

(h) State flower license plates created under RCW 46.18.200;

(i) Volunteer firefighter license plates created under RCW 46.18.200;

(j) Washington tennis license plates created under RCW 46.18.200.

NEW SECTION. **Sec. 5.** A new section is added to chapter 46.04 RCW to read as follows:

"Washington tennis license plates" means special license plates issued under RCW 46.18.200 that display a symbol or artwork recognizing tennis in Washington state.

NEW SECTION. **Sec. 6.** This act takes effect January 1, 2017.

Passed by the House February 12, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 17

[House Bill 2317]

NEIGHBORHOOD AND MEDIUM-SPEED ELECTRIC VEHICLES--USE ON STATE HIGHWAYS

AN ACT Relating to expanding the use of neighborhood and medium-speed electric vehicles; amending RCW 46.61.723 and 46.61.725; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 46.61.723 and 2011 c 171 s 82 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, a person may operate a medium-speed electric vehicle upon a highway of this state having a speed limit of thirty-five miles per hour or less, or forty-five miles per hour or less as provided in subsection (4) of this section, if:

(a) The person does not operate a medium-speed electric vehicle upon state highways that are listed in chapter 47.17 RCW along segments where the posted speed limit exceeds thirty miles per hour;

(b) The person does not operate a medium-speed electric vehicle upon a highway of this state without first having obtained and having in full force and effect a current and proper vehicle ((~~license~~)) registration and display vehicle license ((~~number~~)) plates in compliance with chapter 46.16A RCW. The department must track medium-speed electric vehicles in a separate registration category for reporting purposes;

(c) The person does not operate a medium-speed electric vehicle upon a highway of this state without first obtaining a valid driver's license issued to Washington residents in compliance with chapter 46.20 RCW;

(d) The person does not operate a medium-speed electric vehicle subject to registration under chapter 46.16A RCW on a highway of this state unless the person is insured under a motor vehicle liability policy in compliance with chapter 46.30 RCW; and

(e) The person operating a medium-speed electric vehicle does not cross a roadway with a speed limit in excess of thirty-five miles per hour, or forty-five miles per hour as provided in subsection (4) of this section, unless the crossing begins and ends on a roadway with a speed limit of thirty-five miles per hour or less, or forty-five miles per hour or less as provided in subsection (4) of this section, and occurs at an intersection of approximately ninety degrees, except that the operator of a medium-speed electric vehicle must not cross an

uncontrolled intersection of streets and highways that are part of the state highway system subject to Title 47 RCW unless that intersection has been authorized by local authorities under subsection (3) of this section.

(2) Any person who violates this section commits a traffic infraction.

(3) This section does not prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of their police power, from regulating the operation of medium-speed electric vehicles on streets and highways under their jurisdiction by resolution or ordinance of the governing body, if the regulation is consistent with this title, except that:

(a) Local authorities may not authorize the operation of medium-speed electric vehicles on streets and highways that are part of the state highway system subject to Title 47 RCW along segments where the posted speed limit exceeds thirty miles per hour;

(b) Local authorities may not prohibit the operation of medium-speed electric vehicles upon highways of this state having a speed limit of thirty-five miles per hour or less; and

(c) Local authorities may not establish requirements for the registration ((~~and licensing~~)) of medium-speed electric vehicles.

(4) In counties consisting of islands whose only connection to the mainland are ferry routes, a person may operate a medium-speed electric vehicle upon a highway of this state having a speed limit of forty-five miles per hour or less. A person operating a medium-speed electric vehicle as authorized under this subsection must not cross a roadway with a speed limit in excess of forty-five miles per hour, unless the crossing begins and ends on a roadway with a speed limit of forty-five miles per hour or less and occurs at an intersection of approximately ninety degrees, except that the operator of a medium-speed electric vehicle must not cross an uncontrolled intersection of streets and highways that are part of the state highway system subject to Title 47 RCW unless that intersection has been authorized by local authorities under subsection (3) of this section.

(5) Accidents must be recorded and tracked in compliance with chapter 46.52 RCW. An accident report must indicate and be tracked separately when any of the vehicles involved are a medium-speed electric vehicle.

Sec. 2. RCW 46.61.725 and 2011 c 171 s 83 are each amended to read as follows:

(1) Absent prohibition by local authorities authorized under this section and except as prohibited elsewhere in this section, a person may operate a neighborhood electric vehicle upon a highway of this state having a speed limit of thirty-five miles per hour or less, or forty-five miles per hour or less as provided in subsection (4) of this section, if:

(a) The person does not operate a neighborhood electric vehicle upon state highways that are listed in chapter 47.17 RCW along segments where the posted speed limit exceeds thirty miles per hour;

(b) The person does not operate a neighborhood electric vehicle upon a highway of this state without first having obtained and having in full force and effect a current and proper vehicle ((~~license~~)) registration and display vehicle license ((~~number~~)) plates in compliance with chapter 46.16A RCW. The department must track neighborhood electric vehicles in a separate registration category for reporting purposes;

(c) The person does not operate a neighborhood electric vehicle upon a highway of this state without first obtaining a valid driver's license issued to Washington residents in compliance with chapter 46.20 RCW;

(d) The person does not operate a neighborhood electric vehicle subject to registration under chapter 46.16A RCW on a highway of this state unless the person is insured under a motor vehicle liability policy in compliance with chapter 46.30 RCW; and

(e) The person operating a neighborhood electric vehicle does not cross a roadway with a speed limit in excess of thirty-five miles per hour, or forty-five miles per hour as provided in subsection (4) of this section, unless the crossing begins and ends on a roadway with a speed limit of thirty-five miles per hour or less, or forty-five miles per hour or less as provided in subsection (4) of this section, and occurs at an intersection of approximately ninety degrees, except that the operator of a neighborhood electric vehicle must not cross an uncontrolled intersection of streets and highways that are part of the state highway system subject to Title 47 RCW unless that intersection has been authorized by local authorities provided elsewhere in this section.

(2) Any person who violates this section commits a traffic infraction.

(3) This section does not prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of their police power, from regulating the operation of neighborhood electric vehicles on streets and highways under their jurisdiction by resolution or ordinance of the governing body, if the regulation is consistent with the provisions of this title, except that:

(a) Local authorities may not authorize the operation of neighborhood electric vehicles on streets and highways that are part of the state highway system subject to the provisions of Title 47 RCW <u>along segments where the posted speed limit exceeds thirty miles per hour</u>;

(b) Local authorities may not prohibit the operation of neighborhood electric vehicles upon highways of this state having a speed limit of twenty-five miles per hour or less; and

(c) Local authorities are prohibited from establishing any requirements for the registration ((~~and licensing~~)) of neighborhood electric vehicles.

(4) In counties consisting of islands whose only connection to the mainland are ferry routes, a person may operate a neighborhood electric vehicle upon a highway of this state having a speed limit of forty-five miles per hour or less. A person operating a neighborhood electric vehicle as authorized under this subsection must not cross a roadway with a speed limit in excess of forty-five miles per hour, unless the crossing begins and ends on a roadway with a speed limit of forty-five miles per hour or less and occurs at an intersection of approximately ninety degrees, except that the operator of a neighborhood electric vehicle must not cross an uncontrolled intersection of streets and highways that are part of the state highway system subject to Title 47 RCW unless that intersection has been authorized by local authorities under subsection (3) of this section.

(5) Accidents must be recorded and tracked in compliance with chapter 46.52 RCW. An accident report must indicate and be tracked separately when any of the vehicles involved are a neighborhood electric vehicle.

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 April 1, 2016.

Passed by the House February 10, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 18

[House Bill 2322]

RENTAL CAR TRANSACTIONS--VEHICLE LICENSE COST RECOVERY FEE--DEFINITIONS

AN ACT Relating to the vehicle license cost recovery fee charged for certain rental car transactions; and reenacting and amending RCW 47.04.310.

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

Sec. 1. RCW 47.04.310 and 2009 c 346 s 2 are each reenacted and amended to read as follows:

(1) A rental car company may include separately stated surcharges, fees, or charges in a rental agreement, which may include, but may not be in any way limited to, vehicle license cost recovery fees, child restraint system rental fees, airport-related recovery fees, all applicable taxes, and government surcharges.

(2) If a rental car company includes a vehicle license cost recovery fee as a separately stated charge in a rental transaction, the amount of the fee must represent the rental car company's good faith estimate of the rental car company's average daily charge as calculated by the rental car company to recover its actual total annual rental car titling, registration, plating, and inspection costs in the state of Washington.

(3) If the total amount of the vehicle license cost recovery fees collected by a rental car company under this section in any calendar year exceeds the rental car company's actual costs in the state of Washington to license, title, register, and plate rental cars and to have such rental cars inspected for that calendar year, the rental car company shall do both of the following:

(a) Retain the excess amount; and

(b) Adjust the estimated average per vehicle titling, licensing, plating, inspecting, and registration charge for the following calendar year by a corresponding amount.

(4) Nothing in this section prevents a rental car company from making adjustments to the vehicle license cost recovery fee during the calendar year.

(5) The following definitions apply to this section unless the context clearly requires otherwise:

(a) "Child restraint system rental fee" means a charge that may be separately stated and charged on the rental contract in a car rental transaction originating in Washington state to recover the costs associated with providing child restraint systems; ((~~and~~))

(b) "Rental car" has the same meaning as defined in RCW 48.115.005;

(c) "Rental car company" has the same meaning as defined in RCW 48.115.005; and

(d) "Vehicle license cost recovery fee" means a charge that may be separately stated and charged on the rental contract ((~~in~~)) for a ((~~car~~)) rental car transaction originating in Washington state to recover costs incurred in the state of Washington by a rental car company to license, title, register, plate, and inspect rental cars.

(6)(a) If a rental car company includes a child restraint system rental fee as a separately stated charge in a rental transaction, the amount of the fee must represent no more than the rental car company's good faith estimate of the rental car company's costs to provide a child restraint system.

(b) If a rental car customer pays a child restraint system rental fee and the child restraint system is not available in a timely manner, as determined by the rental car customer, but in no case less than one hour after the arrival of the customer at the location where the customer receives the vehicle or vehicles, (i) the customer may cancel any reservation or other agreement for the rental of the vehicle or vehicles, (ii) any costs or penalties associated with the cancellation are void, and (iii) the customer is entitled to a full refund of any costs associated with the rental of the vehicle or vehicles.

Passed by the House February 10, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 19

[Substitute Senate Bill 6314]

COUNTY ROADS--ADMINISTRATION AND MAINTENANCE

AN ACT Relating to county road administration and maintenance; amending RCW 36.87.120, 36.80.015, 36.80.030, 36.80.040, 36.80.050, 36.80.060, and 36.32.235; and creating a new section.

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

NEW SECTION. **Sec. 1.** The intent of the legislature is to update outdated local road statutes to provide taxpayers with lower road maintenance costs and greater road efficiencies.

Sec. 2. RCW 36.87.120 and 1969 ex.s. c 185 s 6 are each amended to read as follows:

Any ordinance adopted pursuant to this chapter may require that compensation for the vacation of county roads within particular classes shall equal all or a percentage of the appraised value of the vacated road as of the effective date of the vacation. In determining the appropriate compensation for the road or right-of-way, the board may adjust the appraised value to reflect the value of the transfer of liability or risk, the increased value to the public in property taxes, the avoided costs for management or maintenance, and any limits on development or future public benefit. Costs of county appraisals of roads pursuant to such ordinances shall be deemed expenses incurred in vacation proceedings, and shall be paid in the manner provided by RCW 36.87.070.

Sec. 3. RCW 36.80.015 and 2009 c 105 s 5 are each amended to read as follows:

The county road engineer shall keep an office at the county seat ((~~in such room or rooms as are provided by the county, and he or she shall be furnished~~

~~with all necessary cases and other suitable articles, and also with all blank books and blanks necessary to the proper discharge of his or her official duties~~)). The records ((~~and books in~~)) under the authority of the county road engineer((~~'s office~~)) shall be public records, shall be subject to the control of the county road engineer, and shall at all proper times be open to the inspection and examination of the public.

Sec. 4. RCW 36.80.030 and 2009 c 549 s 4133 are each amended to read as follows:

The county road engineer shall ((~~examine and~~)) certify to the board and has authority over all estimates and all bills for labor, materials, provisions, and supplies with respect to county roads, prepare standards of construction of roads and bridges, and perform such other duties as may be required by order of the board.

He or she shall have supervision, under the direction of the board, of establishing, laying out, constructing, altering, improving, repairing, and maintaining all county roads of the county.

Sec. 5. RCW 36.80.040 and 1995 c 194 s 8 are each amended to read as follows:

The office of county engineer shall be an office of record((~~;~~)). The county road engineer shall: Record and ((~~file in his or her office,~~)) has authority over all matters concerning the public roads, highways, bridges, ditches, or other surveys of the county, with the original papers, documents, petitions, surveys, repairs, and other papers, in order to have the complete history of any such road, highway, bridge, ditch, or other survey; and ((~~shall~~)) number each construction or improvement project. Records related to roads or rights-of-way annexed or transferred to other jurisdictions may be transferred to those jurisdictions. Records related to transitory or maintenance activities shall be kept according to record retention schedules. The county engineer is not required to retain and file financial documents retained and filed in other departments in the county.

Sec. 6. RCW 36.80.050 and 2009 c 549 s 4134 are each amended to read as follows:

He or she shall ((~~keep~~)) ensure that a highway plat ((~~book in his or her office~~)) record is kept and is publicly accessible, in which he or she shall have accurately platted all public roads and highways established by the board.

Sec. 7. RCW 36.80.060 and 2009 c 549 s 4135 are each amended to read as follows:

The county road engineer shall maintain ((~~in his or her office~~)) and has authority over complete and accurate records of all expenditures for (1) administration, (2) bond and warrant retirement, (3) maintenance, (4) construction, (5) purchase and operation of road equipment, and (6) purchase or manufacture of materials and supplies, and shall maintain a true and complete inventory of all road equipment. Records may be physically archived with other county records that are available to the public. The state auditor, with the advice and assistance of the county road administration board, shall prescribe forms and types of records to be maintained by the county road engineers.

Sec. 8. RCW 36.32.235 and 2009 c 229 s 6 are each amended to read as follows:

(1) In each county with a population of four hundred thousand or more which by resolution establishes a county purchasing department, the purchasing department shall enter into leases of personal property on a competitive basis and purchase all supplies, materials, and equipment on a competitive basis, for all departments of the county, as provided in this chapter and chapter 39.04 RCW, except that the county purchasing department is not required to make purchases that are paid from the county road fund or equipment rental and revolving fund.

(2) As used in this section((,)):

(a) "Public works" has the same definition as in RCW 39.04.010.

(b) "Riverine project" means a project of construction, alteration, repair, replacement, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property, carried out on a river or stream and its tributaries and associated floodplains, beds, banks, and waters for the purpose of improving aquatic habitat, improving water quality, restoring floodplain function, or providing flood protection.

(c) "Storm water project" means a project of construction, alteration, repair, replacement, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property, carried out on a municipal separate storm sewer system, and any connections to the system, that is regulated under a state-issued national pollutant discharge elimination system general municipal storm water permit for the purpose of improving control of storm water runoff quantity and quality from developed land, safely conveying storm water runoff, or reducing erosion or other water quality impacts caused by municipal separate storm sewer system discharges.

(3) Except as otherwise specified in this chapter or in chapter 36.77 RCW, all counties subject to these provisions shall contract on a competitive basis for all public works after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection.

(4) An advertisement shall be published in the county official newspaper stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, the materials and equipment to be furnished, and that specifications therefor may be seen at the office of the clerk of the county legislative authority. An advertisement shall also be published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done. If the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done, then the publication of an advertisement of the applicable specifications in the county official newspaper is sufficient. Such advertisements shall be published at least once at least thirteen days prior to the last date upon which bids will be received.

(5) The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in the advertisements, and after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form

of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed.

(6) The contract for the public work shall be awarded to the lowest responsible bidder. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law.

(7) If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

(8) As limited by subsection (10) of this section, a county subject to these provisions may have public works performed by county employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period.

Whenever a county subject to these provisions has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works except emergency work under subsection (12) of this section within that budget period shall be done by contract pursuant to public notice and call for competitive bids as specified in subsection (3) of this section. The state auditor shall report to the state treasurer any county subject to these provisions that exceeds this amount and the extent to which the county has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(9) If a county subject to these provisions has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that county in its next budget period. Ten percent of the motor vehicle fuel tax distributions to that county shall be withheld if two years after the year in which the excess amount of work occurred, the county has failed to so reduce the amount of public works that it has performed by public employees. The amount withheld shall be distributed to the county when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been reduced as required.

(10) In addition to the percentage limitation provided in subsection (8) of this section, counties subject to these provisions containing a population of four hundred thousand or more shall not have public employees perform: A public works project in excess of ninety thousand dollars if more than a single craft or trade is involved with the public works project, ((~~or~~)) a riverine project or storm water project in excess of two hundred fifty thousand dollars if more than a single craft or trade is involved with the riverine project or storm water project, a public works project in excess of forty-five thousand dollars if only a single craft or trade is involved with the public works project, or a riverine project or storm

water project in excess of one hundred twenty-five thousand dollars if only a single craft or trade is involved with the riverine project or storm water project. A public works project, a riverine project, and a storm water project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by public employees on a single project.

The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(11) In addition to the accounting and recordkeeping requirements contained in chapter 39.04 RCW, any county which uses public employees to perform public works projects under RCW 36.32.240(1) shall prepare a year-end report to be submitted to the state auditor indicating the total dollar amount of the county's public works construction budget and the total dollar amount for public works projects performed by public employees for that year.

The year-end report submitted pursuant to this subsection to the state auditor shall be in accordance with the standard form required by RCW 43.09.205.

(12) Notwithstanding any other provision in this section, counties may use public employees without any limitation for emergency work performed under an emergency declared pursuant to RCW 36.32.270, and any such emergency work shall not be subject to the limitations of this section. Publication of the description and estimate of costs relating to correcting the emergency may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the county legislative authority shall adopt a resolution certifying the damage to public facilities and costs incurred or anticipated relating to correcting the emergency. Additionally this section shall not apply to architectural and engineering or other technical or professional services performed by public employees in connection with a public works project.

(13) In lieu of the procedures of subsections (3) through (11) of this section, a county may let contracts using the small works roster process provided in RCW 39.04.155.

Whenever possible, the county shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(14) The allocation of public works projects to be performed by county employees shall not be subject to a collective bargaining agreement.

(15) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A RCW.

(16) Nothing in this section prohibits any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(17) This section does not apply to contracts between the public stadium authority and a team affiliate under RCW 36.102.060(4), or development agreements between the public stadium authority and a team affiliate under RCW 36.102.060(7) or leases entered into under RCW 36.102.060(8).

Passed by the Senate March 7, 2016.
Passed by the House March 4, 2016.

Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 20

[Substitute House Bill 2413]

AIRCRAFT REGISTRATION--PROOF AND PENALTIES

AN ACT Relating to aircraft registration simplification and fairness; amending RCW 47.68.240, 47.68.250, and 47.68.250; creating new sections; providing effective dates; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** The legislature finds that the current penalty structure for late aircraft registration is unfair and excessive. The legislature further finds that the timing of providing proof of registration places a burden on aircraft owners attempting to lease or purchase hangar space for their aircraft. The legislature intends to streamline the penalty structure of late registrations and clarify the requirements for providing proof of registration in order to reduce administrative processes and eliminate excessive penalty charges.

Sec. 2. RCW 47.68.240 and 2005 c 341 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, any person violating any of the provisions of this chapter, or any of the rules, regulations, or orders issued pursuant thereto, is guilty of a misdemeanor.

(2)(a) Any person violating any of the provisions of RCW 47.68.220, 47.68.230, or 47.68.255 is guilty of a gross misdemeanor.

(b) In addition to, or in lieu of, the penalties provided in this section, or as a condition to the suspension of a sentence which may be imposed pursuant thereto, for violations of RCW 47.68.220 and 47.68.230, the court in its discretion may prohibit the violator from operating an aircraft within the state for such period as it may determine but not to exceed one year. Violation of the duly imposed prohibition of the court may be treated as a separate offense under this section or as a contempt of court.

(3) In addition to the provisions of subsections (1) and (2) of this section, failure to register an aircraft, as required by this chapter is subject to ((~~the following civil penalties:~~

~~(a) If the aircraft registration is sixty days to one hundred nineteen days past due, the civil penalty is one hundred dollars.~~

~~(b) If the aircraft registration is one hundred twenty days to one hundred eighty days past due, the civil penalty is two hundred dollars.~~

~~(c) If the aircraft registration is over one hundred eighty days past due, the civil penalty is four hundred dollars~~)) a penalty of one hundred dollars if the aircraft registration is sixty days or more past due.

(4) The revenue from ((~~penalties~~)) the penalty prescribed in subsection (3) of this section must be deposited into the aeronautics account under RCW 82.42.090.

Sec. 3. RCW 47.68.250 and 2013 2nd sp.s. c 13 s 1102 are each amended to read as follows:

(1) Every aircraft must be registered with the department for each calendar year in which the aircraft is operated or is based within this state. A fee of fifteen dollars is charged for each such registration and each annual renewal thereof.

(2) Possession of the appropriate effective federal certificate, permit, rating, or license relating to ownership and airworthiness of the aircraft, and payment of the excise tax imposed by Title 82 RCW for the privilege of using the aircraft within this state during the year for which the registration is sought, and payment of the registration fee required by this section are the only requisites for registration of an aircraft under this section.

(3) The registration fee imposed by this section is payable to and collected by the secretary. The fee for any calendar year must be paid during the month of January, and must be collected by the secretary at the time of the collection by him or her of the excise tax. If the secretary is satisfied that the requirements for registration of the aircraft have been met, he or she must issue to the owner of the aircraft a certificate of registration therefor. The secretary must pay to the state treasurer the registration fees collected under this section, which registration fees must be credited to the aeronautics account in the transportation fund.

(4) It is not necessary for the registrant to provide the secretary with originals or copies of federal certificates, permits, ratings, or licenses. The secretary must issue certificates of registration, or such other evidences of registration or payment of fees as he or she may deem proper; and in connection therewith may prescribe requirements for the possession and exhibition of such certificates or other evidences.

(5) The provisions of this section do not apply to:

(a) An aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(b) An aircraft registered under the laws of a foreign country;

(c) An aircraft that is owned by a nonresident if:

(i) The aircraft remains in this state or is based in this state, or both, for a period less than ninety days; or

(ii) The aircraft is a large private airplane as defined in RCW 82.08.215 and remains in this state for a period of ninety days or longer, but only when:

(A) The airplane is in this state exclusively for the purpose of repairs, alterations, or reconstruction, including any flight testing related to the repairs, alterations, or reconstruction, or for the purpose of continual storage of not less than one full calendar year;

(B) An employee of the facility providing these services is on board the airplane during any flight testing; and

(C) Within ninety days of the date the airplane first arrived in this state during the calendar year, the nonresident files a written statement with the department indicating that the airplane is exempt from registration under this subsection (5)(c)(ii). The written statement must be filed in a form and manner prescribed by the department and must include such information as the department requires. The department may require additional periodic verification that the airplane remains exempt from registration under this

subsection (5)(c)(ii) and that written statements conform with the provisions of RCW 9A.72.085;

(d) An aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce;

(e) An aircraft owned by the commercial manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

(f) An aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under Title 14 RCW; and

(g) An aircraft based within the state that is in an unairworthy condition, is not operated within the registration period, and has obtained a written exemption issued by the secretary.

(6) The secretary must be notified within thirty days of any change in ownership of a registered aircraft. The notification must contain the N, NC, NR, NL, or NX number of the aircraft, the full name and address of the former owner, and the full name and address of the new owner. For failure to so notify the secretary, the registration of that aircraft may be canceled by the secretary, subject to reinstatement upon application and payment of a reinstatement fee of ten dollars by the new owner.

(7) A municipality or port district that owns, operates, or leases an airport, as defined in RCW 47.68.020, with the intent to operate, must require from an aircraft owner proof of aircraft registration as a condition of leasing or selling tiedown or ((~~hanger~~)) hangar space for an aircraft. It is the responsibility of the lessee or purchaser to register the aircraft. Proof of registration must be provided according to the following schedule:

(a) For the purchase of tiedown or hangar space, the municipality or port district must allow the purchaser thirty days from the date of the application for purchase to produce proof of aircraft registration.

(b) For the lease of tiedown or hangar space that extends thirty days or more, the municipality or port district must allow the lessee thirty days to produce proof of aircraft registration from the date of the application for lease of tiedown or hangar space.

(c) For the lease of tiedown or hangar space that extends less than thirty days, the municipality or port district must allow the lessee to produce proof of aircraft registration at any point prior to the final day of the lease.

(8) The airport must work with the aviation division to assist in its efforts to register aircraft by providing information about based aircraft on an annual basis as requested by the division.

Sec. 4. RCW 47.68.250 and 2003 c 375 s 4 are each amended to read as follows:

(1) Every aircraft ((~~shall~~)) must be registered with the department for each calendar year in which the aircraft is operated or is based within this state. A fee of fifteen dollars ((~~shall be~~)) is charged for each such registration and each annual renewal thereof.

(2) Possession of the appropriate effective federal certificate, permit, rating, or license relating to ownership and airworthiness of the aircraft, and payment of the excise tax imposed by Title 82 RCW for the privilege of using the aircraft within this state during the year for which the registration is sought, and payment

of the registration fee required by this section ((~~shall be~~)) are the only requisites for registration of an aircraft under this section.

(3) The registration fee imposed by this section ((~~shall be~~)) is payable to and collected by the secretary. The fee for any calendar year must be paid during the month of January, and ((~~shall be~~)) collected by the secretary at the time of the collection by him or her of the said excise tax. If the secretary is satisfied that the requirements for registration of the aircraft have been met, he or she ((~~shall thereupon~~)) must issue to the owner of the aircraft a certificate of registration therefor. The secretary ((~~shall~~)) must pay to the state treasurer the registration fees collected under this section, which registration fees ((~~shall~~)) must be credited to the aeronautics account in the transportation fund.

(4) It ((~~shall~~)) is not ((~~be~~)) necessary for the registrant to provide the secretary with originals or copies of federal certificates, permits, ratings, or licenses. The secretary ((~~shall~~)) must issue certificates of registration, or such other evidences of registration or payment of fees as he or she may deem proper; and in connection therewith may prescribe requirements for the possession and exhibition of such certificates or other evidences.

(5) The provisions of this section ((~~shall~~)) do not apply to:

(((~~(1)~~))) (a) An aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(((~~(2)~~))) (b) An aircraft registered under the laws of a foreign country;

(((~~(3)~~))) (c) An aircraft which is owned by a nonresident and registered in another state((~~: PROVIDED, That~~)), However, if said aircraft ((~~shall~~)) remains in and/or be based in this state for a period of ninety days or longer it ((~~shall~~)) is not ((~~be~~)) exempt under this section;

(((~~(4)~~))) (d) An aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce;

(((~~(5)~~))) (e) An aircraft owned by the commercial manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

(((~~(6)~~))) (f) An aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under Title 14 RCW;

(((~~(7)~~))) (g) An aircraft based within the state that is in an unairworthy condition, is not operated within the registration period, and has obtained a written exemption issued by the secretary.

(6) The secretary ((~~shall~~)) must be notified within thirty days of any change in ownership of a registered aircraft. The notification ((~~shall~~)) must contain the N, NC, NR, NL, or NX number of the aircraft, the full name and address of the former owner, and the full name and address of the new owner. For failure to so notify the secretary, the registration of that aircraft may be canceled by the secretary, subject to reinstatement upon application and payment of a reinstatement fee of ten dollars by the new owner.

(7) A municipality or port district that owns, operates, or leases an airport, as defined in RCW 47.68.020, with the intent to operate, ((~~shall~~)) must require from an aircraft owner proof of aircraft registration as a condition of leasing or

selling tiedown or ((~~hanger~~)) hangar space for an aircraft. It is the responsibility of the lessee or purchaser to register the aircraft. Proof of registration must be provided according to the following schedule:

(a) For the purchase of tiedown or hangar space, the municipality or port district must allow the purchaser thirty days from the date of the application for purchase to produce proof of aircraft registration.

(b) For the lease of tiedown or hangar space that extends thirty days or more, the municipality or port district must allow the lessee thirty days to produce proof of aircraft registration from the date of the application for lease of tiedown or hangar space.

(c) For the lease of tiedown or hangar space that extends less than thirty days, the municipality or port district must allow the lessee to produce proof of aircraft registration at any point prior to the final day of the lease.

(8) The airport ((~~shall~~)) must work with the aviation division to assist in its efforts to register aircraft by providing information about based aircraft on an annual basis as requested by the division.

NEW SECTION. **Sec. 5.** Section 2 of this act applies to registrations that initially become past due beginning on or after July 1, 2016.

NEW SECTION. **Sec. 6.** Section 3 of this act takes effect July 1, 2016.

NEW SECTION. **Sec. 7.** Section 3 of this act expires July 1, 2021.

NEW SECTION. **Sec. 8.** Section 4 of this act takes effect July 1, 2021.

Passed by the House February 17, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 21

[House Bill 2516]

COMMERCIAL TRANSPORTATION SERVICE PROVIDERS--COMMUTER RIDE-SHARING ARRANGEMENTS EXCLUDED

AN ACT Relating to commuter ride-sharing arrangements; and reenacting and amending RCW 48.177.005.

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

Sec. 1. RCW 48.177.005 and 2015 c 236 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) "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.

(2) "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, or a commuter ride-sharing or flexible commuter ride-sharing arrangement under chapter 46.74 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.

(3) "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.

(4) "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.

(5) "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.

(6) "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.

Passed by the House February 10, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 22

[Substitute House Bill 2598]

CARGO EXTENSIONS--USE WITH RECREATIONAL VEHICLES

AN ACT Relating to authorizing the use of certain cargo extensions that connect to a recreational vehicle frame; amending RCW 46.04.620, 46.37.050, 46.37.340, 46.37.500, and

46.44.037; adding a new section to chapter 46.04 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature to ensure that a cargo-carrying extension on the rear of a motor home or travel trailer must safely carry the weight of the cargo by requiring, if necessary, that the unit have an axle and two wheels, acting as a tag axle, to accommodate the weight and size of the cargo.

Sec. 2. RCW 46.04.620 and 1974 ex.s. c 76 s 3 are each amended to read as follows:

"Trailer" includes every vehicle without motive power designed for being drawn by or used in conjunction with a motor vehicle constructed so that no appreciable part of its weight rests upon or is carried by such motor vehicle, but does not include a municipal transit vehicle, or any portion thereof. "Trailer" does not include a cargo extension.

NEW SECTION. **Sec. 3.** A new section is added to chapter 46.04 RCW to read as follows:

"Cargo extension" means a device that connects to the left and right side of a motor home or travel trailer frame and (1) becomes part of the frame, (2) does not pivot on a hitch, and (3) has an axle with two wheels, acting as a tag axle, to safely carry the weight of the cargo.

Sec. 4. RCW 46.37.050 and 1977 ex.s. c 355 s 5 are each amended to read as follows:

(1) After January 1, 1964, every motor vehicle, trailer, cargo extension, semitrailer, and pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two tail lamps mounted on the rear, which, when lighted as required in RCW 46.37.020, shall emit a red light plainly visible from a distance of one thousand feet to the rear, except that passenger cars manufactured or assembled prior to January 1, 1939, shall have at least one tail lamp. On a combination of vehicles only the tail lamps on the rearmost vehicle need actually be seen from the distance specified. On vehicles equipped with more than one tail lamp, the lamps shall be mounted on the same level and as widely spaced laterally as practicable.

(2) Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two inches nor less than fifteen inches.

(3) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp or lamps for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

Sec. 5. RCW 46.37.340 and 1989 c 221 s 1 are each amended to read as follows:

Every motor vehicle, trailer, semitrailer, and pole trailer, and any combination of such vehicle operating upon a highway within this state shall be equipped with brakes in compliance with the requirements of this chapter.

(1) Service brakes—adequacy. Every such vehicle and combination of vehicles, except special mobile equipment as defined in RCW 46.04.552, shall

be equipped with service brakes complying with the performance requirements of RCW 46.37.351 and adequate to control the movement of and to stop and hold such vehicle under all conditions of loading, and on any grade incident to its operation.

(2) Parking brakes—adequacy. Every such vehicle and combination of vehicles shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice, or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(3) Brakes on all wheels. Every vehicle shall be equipped with brakes acting on all wheels except:

(a) Trailers, cargo extensions, semitrailers, or pole trailers of a gross weight not exceeding three thousand pounds, provided that:

(i) The total weight on and including the wheels of the trailer or trailers or cargo extension shall not exceed forty percent of the gross weight of the towing vehicle when connected to the trailer or trailers; and

(ii) The combination of vehicles consisting of the towing vehicle and its total towed load, is capable of complying with the performance requirements of RCW 46.37.351;

(b) Trailers, semitrailers, or pole trailers manufactured and assembled prior to July 1, 1965, shall not be required to be equipped with brakes when the total weight on and including the wheels of the trailer or trailers does not exceed two thousand pounds;

(c) Any vehicle being towed in driveaway or towaway operations, provided the combination of vehicles is capable of complying with the performance requirements of RCW 46.37.351;

(d) Trucks and truck tractors manufactured before July 25, 1980, and having three or more axles need not have brakes on the front wheels, except that when such vehicles are equipped with at least two steerable axles, the wheels of one steerable axle need not have brakes. Trucks and truck tractors manufactured on or after July 25, 1980, and having three or more axles are required to have brakes on the front wheels, except that when such vehicles are equipped with at least two steerable axles, the wheels of one steerable axle need not have brakes. Such trucks and truck tractors may be equipped with an automatic device to reduce the front-wheel braking effort by up to fifty percent of the normal braking force,

regardless of whether or not antilock system failure has occurred on any axle, and:

(i) Must not be operable by the driver except upon application of the control that activates the braking system; and

(ii) Must not be operable when the pressure that transmits brake control application force exceeds eighty-five pounds per square inch (psi) on air-mechanical braking systems, or eighty-five percent of the maximum system pressure in vehicles utilizing other than compressed air.

All trucks and truck tractors having three or more axles must be capable of complying with the performance requirements of RCW 46.37.351;

(e) Special mobile equipment as defined in RCW 46.04.552 and all vehicles designed primarily for off-highway use with braking systems which work within the power train rather than directly at each wheel;

(f) Vehicles manufactured prior to January 1, 1930, may have brakes operating on only two wheels.

(g) For a forklift manufactured after January 1, 1970, and being towed, wheels need not have brakes except for those on the rearmost axle so long as such brakes, together with the brakes on the towing vehicle, shall be adequate to stop the combination within the stopping distance requirements of RCW 46.37.351.

(4) Automatic trailer brake application upon breakaway. Every trailer, semitrailer, and pole trailer equipped with air or vacuum actuated brakes and every trailer, semitrailer, and pole trailer with a gross weight in excess of three thousand pounds, manufactured or assembled after January 1, 1964, shall be equipped with brakes acting on all wheels and of such character as to be applied automatically and promptly, and remain applied for at least fifteen minutes, upon breakaway from the towing vehicle.

(5) Tractor brakes protected. Every motor vehicle manufactured or assembled after January 1, 1964, and used to tow a trailer, semitrailer, or pole trailer equipped with brakes, shall be equipped with means for providing that in case of breakaway of the towed vehicle, the towing vehicle will be capable of being stopped by the use of its service brakes.

(6) Trailer air reservoirs safeguarded. Air brake systems installed on trailers manufactured or assembled after January 1, 1964, shall be so designed that the supply reservoir used to provide air for the brakes shall be safeguarded against backflow of air from the reservoir through the supply line.

(7) Two means of emergency brake operation.

(a) Air brakes. After January 1, 1964, every towing vehicle equipped with air controlled brakes, in other than driveaway or towaway operations, and all other vehicles equipped with air controlled brakes, shall be equipped with two means for emergency application of the brakes. One of these means shall apply the brakes automatically in the event of a reduction of the vehicle's air supply to a fixed pressure which shall be not lower than twenty pounds per square inch nor higher than forty-five pounds per square inch. The other means shall be a manually controlled device for applying and releasing the brakes, readily operable by a person seated in the driving seat, and its emergency position or method of operation shall be clearly indicated. In no instance may the manual means be so arranged as to permit its use to prevent operation of the automatic

means. The automatic and the manual means required by this section may be, but are not required to be, separate.

(b) Vacuum brakes. After January 1, 1964, every towing vehicle used to tow other vehicles equipped with vacuum brakes, in operations other than driveaway or towaway operations, shall have, in addition to the single control device required by subsection (8) of this section, a second control device which can be used to operate the brakes on towed vehicles in emergencies. The second control shall be independent of brake air, hydraulic, and other pressure, and independent of other controls, unless the braking system be so arranged that failure of the pressure upon which the second control depends will cause the towed vehicle brakes to be applied automatically. The second control is not required to provide modulated braking.

(8) Single control to operate all brakes. After January 1, 1964, every motor vehicle, trailer, semitrailer, and pole trailer, and every combination of such vehicles, equipped with brakes shall have the braking system so arranged that one control device can be used to operate all service brakes. This requirement does not prohibit vehicles from being equipped with an additional control device to be used to operate brakes on the towed vehicles. This regulation does not apply to driveaway or towaway operations unless the brakes on the individual vehicles are designed to be operated by a single control in the towing vehicle.

(9) Reservoir capacity and check valve.

(a) Air brakes. Every bus, truck, or truck tractor with air operated brakes shall be equipped with at least one reservoir sufficient to insure that, when fully charged to the maximum pressure as regulated by the air compressor governor cut-out setting, a full service brake application may be made without lowering such reservoir pressure by more than twenty percent. Each reservoir shall be provided with means for readily draining accumulated oil or water.

(b) Vacuum brakes. After January 1, 1964, every truck with three or more axles equipped with vacuum assistor type brakes and every truck tractor and truck used for towing a vehicle equipped with vacuum brakes shall be equipped with a reserve capacity or a vacuum reservoir sufficient to insure that, with the reserve capacity or reservoir fully charged and with the engine stopped, a full service brake application may be made without depleting the vacuum supply by more than forty percent.

(c) Reservoir safeguarded. All motor vehicles, trailers, semitrailers, and pole trailers, when equipped with air or vacuum reservoirs or reserve capacity as required by this section, shall have such reservoirs or reserve capacity so safeguarded by a check valve or equivalent device that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored air or vacuum shall not be depleted by the leak or failure.

(10) Warning devices.

(a) Air brakes. Every bus, truck, or truck tractor using compressed air for the operation of its own brakes or the brakes on any towed vehicle, shall be provided with a warning signal, other than a pressure gauge, readily audible or visible to the driver, which will operate at any time the primary supply air reservoir pressure of the vehicle is below fifty percent of the air compressor governor cut-out pressure. In addition, each such vehicle shall be equipped with a pressure gauge visible to the driver, which indicates in pounds per square inch the pressure available for braking.

(b) Vacuum brakes. After January 1, 1964, every truck tractor and truck used for towing a vehicle equipped with vacuum operated brakes and every truck with three or more axles using vacuum in the operation of its brakes, except those in driveaway or towaway operations, shall be equipped with a warning signal, other than a gauge indicating vacuum, readily audible or visible to the driver, which will operate at any time the vacuum in the vehicle's supply reservoir or reserve capacity is less than eight inches of mercury.

(c) Combination of warning devices. When a vehicle required to be equipped with a warning device is equipped with both air and vacuum power for the operation of its own brakes or the brakes on a towed vehicle, the warning devices may be, but are not required to be, combined into a single device which will serve both purposes. A gauge or gauges indicating pressure or vacuum shall not be deemed to be an adequate means of satisfying this requirement.

Sec. 6. RCW 46.37.500 and 1999 c 58 s 2 are each amended to read as follows:

(1) Except as authorized under subsection (2) of this section, no person may operate any motor vehicle, trailer, cargo extension, or semitrailer that is not equipped with fenders, covers, flaps, or splash aprons adequate for minimizing the spray or splash of water or mud from the roadway to the rear of the vehicle. All such devices shall be as wide as the tires behind which they are mounted and extend downward at least to the center of the axle.

(2) A motor vehicle that is not less than forty years old or a street rod vehicle that is owned and operated primarily as a collector's item need not be equipped with fenders when the vehicle is used and driven during fair weather on well-maintained, hard-surfaced roads.

Sec. 7. RCW 46.44.037 and 2011 c 230 s 1 are each amended to read as follows:

Notwithstanding the provisions of RCW 46.44.036 and subject to such rules and regulations governing their operation as may be adopted by the state department of transportation, operation of the following combinations is lawful:

(1) A combination consisting of a truck tractor, a semitrailer, and another semitrailer or a full trailer. In this combination a converter gear used to convert a semitrailer into a full trailer shall be considered to be a part of the full trailer and not a separate vehicle. A converter gear being pulled without load and not used to convert a semitrailer into a full trailer may be substituted in lieu of a full trailer or a semitrailer in any lawful combination;

(2) A combination consisting of a truck tractor carrying a freight compartment no longer than eight feet, a semitrailer, and another semitrailer or full trailer that meets the legal length requirement for a truck and trailer combination set forth in RCW 46.44.030;

(3) A motor home or travel trailer with a cargo extension, provided that there are no trailers or secondary cargo extensions or units attached to the cargo extension.

NEW SECTION. **Sec. 8.** This act takes effect July 1, 2016.

Passed by the House February 10, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 23

[House Bill 2599]

FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD--REMOVAL OF FUNDING CONSIDERATION

AN ACT Relating to the freight mobility strategic investment board's authority to remove funding allocation for projects after a certain number of years without construction occurring; and amending RCW 47.06A.050.

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

Sec. 1. RCW 47.06A.050 and 2013 c 104 s 2 are each amended to read as follows:

(1) For the purpose of allocating funds for the freight mobility strategic investment program, the board shall allocate the first fifty-five percent of funds to the highest priority projects, without regard to location.

(2) The remaining funds shall be allocated equally among three regions of the state, defined as follows:

(a) The Puget Sound region includes King, Pierce, and Snohomish counties;

(b) The western Washington region includes Clallam, Jefferson, Island, Kitsap, San Juan, Skagit, Whatcom, Clark, Cowlitz, Grays Harbor, Lewis, Mason, Pacific, Skamania, Thurston, and Wahkiakum counties; and

(c) The eastern Washington region includes Adams, Chelan, Douglas, Ferry, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Whitman, Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Klickitat, Walla Walla, and Yakima counties.

(3) If a region does not have enough qualifying projects to utilize its allocation of funds, the funds will be made available to the next highest priority project, without regard to location.

(4) In the event that a proposal contains projects in more than one region, for purposes of assuring that equitable geographic distributions are made under subsection (2) of this section, the board shall evaluate the proposal and proportionally assign the benefits that are attributable to each region.

(5)(a) If the board identifies a project for funding, but later determines that the project is not ready to proceed, the board shall recommend removing the project from consideration and the next highest priority project shall be substituted in the project portfolio. Any project removed from funding consideration because it is not ready to proceed shall retain its position on the priority project list for six years.

(b) The board may remove a project from consideration after six years for any of the following reasons: (i) The project has been unable to obtain the necessary funding or financing to proceed, (ii) the project priority in the jurisdiction where the project is located has been decreased so that it is unlikely to be constructed within two years, or (iii) there are quantifiable issues that make it highly unlikely the project could obtain the necessary permits or could be constructed as submitted in the original proposal to the board.

(c) To restore any project for funding consideration after it has been removed under (b) of this subsection, the sponsoring public entity must submit a new application, which must be considered by the board in the same manner as new applicants.

Passed by the House February 17, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 24

[House Bill 2651]

VEHICLE MAXIMUM GROSS WEIGHT VALUES

AN ACT Relating to vehicle maximum gross weight values; and amending RCW 46.44.041.

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

Sec. 1. RCW 46.44.041 and 1997 c 198 s 1 are each amended to read as follows:

No vehicle or combination of vehicles shall operate upon the public highways of this state with a gross load on any single axle in excess of twenty thousand pounds, or upon any group of axles in excess of that set forth in the following table, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each, if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

The following table is based on the following formula: W = 500((LN/N-1)+12N+36). W is the maximum weight in pounds (to the nearest 500 pounds) carried on any group of two (2) or more consecutive axles. L is the distance in feet between the extremes of any group of two (2) or more consecutive axles. N is the number of axles under consideration.

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
4	34,000							
5	34,000							
6	34,000							
7	34,000							
8 & less	34,000	34,000						
more than 8	38,000	42,000						
9	39,000	42,500						
10	40,000	43,500						
11		44,000	49,000					
12		45,000	50,000					
13		45,500	50,500					
14		46,500	51,500	56,500				
15		47,000	52,000	57,000				
16		48,000	52,500	58,000				
17		48,500	53,500	58,500				
18		49,500	54,000	59,000	64,500			
19		50,000	54,500	60,000	65,000			
20		51,000	55,500	60,500	66,000			
21		51,500	56,000	61,000	66,500	72,000		
22		52,500	56,500	61,500	67,000	72,500		
23		53,000	57,500	62,500	68,000	73,000		
24		54,000	58,000	63,000	68,500	74,000		

25	54,500	58,500	63,500	69,000	74,500	80,000	
26	55,500	59,500	64,000	69,500	75,000	80,500	
27	56,000	60,000	65,000	70,000	75,500	81,000	
28	57,000	60,500	65,500	71,000	76,500	82,000	87,500
29	57,500	61,500	66,000	71,500	77,000	82,500	88,000
30	58,500	62,000	66,500	72,000	77,500	83,000	88,500
31	59,000	62,500	67,500	72,500	78,000	83,500	89,000
32	60,000	63,500	68,000	73,000	78,500	84,500	90,000
33		64,000	68,500	74,000	79,000	85,000	90,500
34		64,500	69,000	74,500	80,000	85,500	91,000
35		65,500	70,000	75,000	80,500	86,000	91,500
36		66,000	70,500	75,500	81,000	86,500	92,000
37		66,500	71,000	76,000	81,500	87,000	93,000
38		67,500	71,500	77,000	82,000	87,500	93,500
39		68,000	72,500	77,500	82,500	88,500	94,000
40		68,500	73,000	78,000	83,500	89,000	94,500
41		69,500	73,500	78,500	84,000	89,500	95,000
42		70,000	74,000	79,000	84,500	90,000	95,500
43		70,500	75,000	80,000	85,000	90,500	96,000
44		71,500	75,500	80,500	85,500	91,000	96,500
45		72,000	76,000	81,000	86,000	91,500	97,500
46		72,500	76,500	81,500	87,000	92,500	98,000
47		73,500	77,500	82,000	87,500	93,000	98,500
48		74,000	78,000	83,000	88,000	93,500	99,000
49		74,500	78,500	83,500	88,500	94,000	99,500
50		75,500	79,000	84,000	89,000	94,500	100,000
51		76,000	80,000	84,500	89,500	95,000	100,500
52		76,500	80,500	85,000	90,500	95,500	101,000
53		77,500	81,000	86,000	91,000	96,500	102,000
54		78,000	81,500	86,500	91,500	97,000	102,500
55		78,500	82,500	87,000	92,000	97,500	103,000
56		79,500	83,000	87,500	92,500	98,000	103,500
57		80,000	83,500	88,000	93,000	98,500	104,000
58			84,000	89,000	94,000	99,000	104,500
59			85,000	89,500	94,500	99,500	105,500
60			85,500	90,000	95,000	100,500	105,500
61			86,000	90,500	95,500	101,000	105,500
62			86,500	91,000	96,000	101,500	105,500
63			87,500	92,000	96,500	102,000	105,500
64			88,000	92,500	97,500	102,500	105,500
65			88,500	93,000	98,000	103,000	105,500
66			89,000	93,500	98,500	103,500	105,500
67			90,000	94,000	99,000	104,500	105,500
68			90,500	95,000	99,500	105,000	105,500
69			91,000	95,500	100,000	105,500	105,500
70			91,500	96,000	101,000	105,500	105,500
71			92,500	96,500	101,500	105,500	105,500
72			93,000	97,000	102,000	105,500	105,500
73			93,500	98,000	102,500	105,500	105,500
74			94,000	98,500	103,000	105,500	105,500
75			95,000	99,000	103,500	105,500	105,500
76			95,500	99,500	104,500	105,500	105,500
77			96,000	100,000	105,000	105,500	105,500
78			96,500	101,000	105,500	105,500	105,500
79			97,500	101,500	105,500	105,500	105,500
80			98,000	102,000	105,500	105,500	105,500
81			98,500	102,500	105,500	105,500	105,500
82			99,000	103,000	105,500	105,500	105,500
83			100,000	104,000	105,500	105,500	105,500
84				104,500	105,500	105,500	105,500
85				105,000	105,500	105,500	105,500
86 or more				105,500	105,500	105,500	105,500

When inches are involved: Under six inches take lower, six inches or over take higher. The maximum load on any axle in any group of axles shall not exceed the single axle or tandem axle allowance as set forth in the table above.

The maximum axle and gross weights specified in this section are subject to the braking requirements set up for the service brakes upon any motor vehicle or combination of vehicles as provided by law.

Loads of not more than eighty thousand pounds which may be legally hauled in the state bordering this state which also has a sales tax, are legal in this state when moving to a port district within four miles of the bordering state except on the interstate system. This provision does not allow the operation of a vehicle combination consisting of a truck tractor and three trailers.

Notwithstanding anything contained herein, a vehicle or combination of vehicles in operation on January 4, 1975, may operate upon the public highways of this state, including the interstate system within the meaning of section 127 of Title 23, United States Code, with an overall gross weight upon a group of two consecutive sets of dual axles which was lawful in this state under the laws, regulations, and procedures in effect in this state on January 4, 1975.

Passed by the House February 16, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 25

[Engrossed House Bill 2745]

FERRY ADVISORY COMMITTEES--FAILURE OF VASHON/MAURY ISLAND COMMUNITY COUNCIL TO FILL VACANCY

AN ACT Relating to ferry advisory committees; and amending RCW 47.60.310.

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

Sec. 1. RCW 47.60.310 and 2010 c 8 s 10020 are each amended to read as follows:

(1) The department is further directed to conduct such review by soliciting and obtaining expressions from local community groups in order to be properly informed as to problems being experienced within the area served by the Washington state ferries. In order that local representation may be established, the department shall give prior notice of the review to the ferry advisory committees.

(2) The legislative authorities of San Juan, Skagit, Clallam, and Jefferson counties shall each appoint a committee to consist of five members to serve as an advisory committee to the department or its designated representative in such review. The legislative authorities of other counties that contain ferry terminals shall appoint ferry advisory committees consisting of three members for each terminal area in each county, except for Vashon Island, which shall have one committee, and its members shall be appointed by the Vashon/Maury Island community council. If the Vashon/Maury Island community council fails to appoint a qualified person to fill a vacancy within ninety days of the occurrence of the vacancy, the legislative authority of King county shall appoint a qualified person to fill the vacancy. At least one person appointed to each ferry advisory committee shall be representative of an established ferry user group or of frequent users of the ferry system. Each member shall reside in the vicinity of the terminal that the advisory committee represents.

(3) The members of the San Juan, Clallam, and Jefferson county ferry advisory committees shall be appointed for four-year terms. The initial terms shall commence on July 1, 1982, and end on June 30, 1986. Any vacancy shall be filled for the remainder of the unexpired term by the appointing authority. At least one person appointed to the advisory committee shall be representative of an established ferry-user group or of frequent users of the ferry system, at least one shall be representative of persons or firms using or depending upon the ferry system for commerce, and one member shall be representative of a local government planning body or its staff. Every member shall be a resident of the county upon whose advisory committee he or she sits, and not more than three members shall at the time of their appointment be members of the same major political party.

(4) The members of each terminal area committee shall be appointed for four-year terms. The initial terms of the members of each terminal area committee shall be staggered as follows: All terms shall commence September 1, 1988, with one member's term expiring August 31, 1990, one member's term expiring August 31, 1991, and the remaining member's term expiring August 31, 1992. Any vacancy shall be filled for the remainder of the unexpired term by the appointing authority. Not more than two members of any terminal-area committee may be from the same political party at the time of their appointment, and in a county having more than one committee, the overall party representation shall be as nearly equal as possible.

(5) The ((~~chair[s]~~)) chairs of the several committees constitute an executive committee of the Washington state ferry users. The executive committee shall meet twice each year with representatives of the marine division of the department to review ferry system issues.

(6) The committees to be appointed by the county legislative authorities shall serve without fee or compensation.

Passed by the House February 17, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 26

[House Bill 2807]

HEAVY HAUL INDUSTRIAL CORRIDOR--CREATION ON PORTION OF STATE ROUTES 128 AND 193

AN ACT Relating to heavy haul industrial corridors; amending RCW 46.44.0915; and providing an effective date.

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

Sec. 1. RCW 46.44.0915 and 2013 c 115 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) and (c) of this subsection, the department of transportation, with respect to state highways maintained within port district property, may, at the request of a port commission, make and enter into agreements with port districts and adjacent jurisdictions or agencies of the districts, for the purpose of identifying, managing, and maintaining short heavy

haul industrial corridors within port district property for the movement of overweight sealed containers used in international trade.

(b) The department of transportation shall designate that portion of state route number 97 from the Canadian border to milepost 331.12 as a heavy haul industrial corridor for the movement of overweight vehicles to and from the Oroville railhead. The department may issue special permits to vehicles operating in the heavy haul industrial corridor to carry weight in excess of weight limits established in RCW 46.44.041, but not to exceed a gross vehicle weight of 139,994 pounds.

(c) The department of transportation shall designate that portion of state route number 128 from the Idaho border from milepost .51 to 2.24 and continuing on to state route number 193 from milepost .51 to 2.32 ending at the Port of Wilma as a heavy haul industrial corridor for the movement of overweight vehicles. The department may issue special permits to vehicles operating in the heavy haul industrial corridor to carry weight in excess of weight limits established in RCW 46.44.041, but not to exceed a gross vehicle weight of 129,000 pounds. Such vehicles operating in the heavy haul industrial corridor must comply with the federal bridge gross weight formula in 23 C.F.R. Part 658 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this subsection (1)(c), with axle and tire size weight limitations established in RCW 46.44.042 and length limitations established in RCW 46.44.030 and 46.44.0941.

(2) Except as provided in subsection (1)(b) and (c) of this section, the department may issue special permits to vehicles operating in a heavy haul industrial corridor to carry weight in excess of weight limits established in RCW 46.44.041. However, the excess weight on a single axle, tandem axle, or any axle group must not exceed that allowed by RCW 46.44.091 (1) and (2), weight per tire must not exceed six hundred pounds per inch width of tire, and gross vehicle weight must not exceed one hundred five thousand five hundred pounds.

(3) The entity operating or hiring vehicles under subsection (1)(b) of this section or moving overweight sealed containers used in international trade must pay a fee for each special permit of one hundred dollars per month or one thousand dollars annually, beginning from the date of issue, for all movements under the special permit made on state highways within a heavy haul industrial corridor. Within a port district property, under no circumstances are the for hire carriers or rail customers responsible for the purchase or cost of the permits. All funds collected, except the amount retained by authorized agents of the department under RCW 46.44.096, must be forwarded to the state treasurer and deposited in the motor vehicle fund.

(4) For purposes of this section, an overweight sealed container used in international trade, including its contents, is considered nondivisible when transported within a heavy haul industrial corridor defined by the department.

(5) Any agreement entered into by the department as authorized under this section with a port district adjacent to Puget Sound and located within a county that has a population of more than seven hundred thousand, but less than one million, must limit the applicability of any established heavy haul corridor to that portion of state route no. 509 beginning at milepost 0.25 in the vicinity of

East 'D' Street and ending at milepost 5.7 in the vicinity of Norpoint Way Northeast.

(6) The department of transportation may adopt reasonable rules to implement this section.

NEW SECTION. **Sec. 2.** This act takes effect January 1, 2017.

Passed by the House February 12, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 27

[House Bill 2815]

REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS--MINIMUM POPULATION WHEN FERRY TERMINAL EXISTS

AN ACT Relating to modifying the eligibility requirements for certain counties with ferry terminals to form a regional transportation planning organization; amending RCW 47.80.020; and providing an effective date.

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

Sec. 1. RCW 47.80.020 and 1990 1st ex.s. c 17 s 54 are each amended to read as follows:

The legislature hereby authorizes creation of regional transportation planning organizations within the state. Each regional transportation planning organization shall be formed through the voluntary association of local governments within a county, or within geographically contiguous counties. Each organization shall:

(1) Encompass at least one complete county;

(2) Have a population of at least one hundred thousand, have a population of at least seventy-five thousand and contain a Washington state ferries terminal, or contain a minimum of three counties; and

(3) Have as members all counties within the region, and at least sixty percent of the cities and towns within the region representing a minimum of seventy-five percent of the cities' and towns' population.

The state department of transportation must verify that each regional transportation planning organization conforms with the requirements of this section.

In urbanized areas, the regional transportation planning organization is the same as the metropolitan planning organization designated for federal transportation planning purposes.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2016.

Passed by the House February 16, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 28

[Engrossed Second Substitute House Bill 2872]

WASHINGTON STATE PATROL COMMISSIONED OFFICERS--RECRUITMENT AND RETENTION

AN ACT Relating to the recruitment and retention of Washington state patrol commissioned officers; amending RCW 46.68.030 and 43.43.380; adding new sections to chapter 43.43 RCW; creating new sections; and providing an effective date.

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature to recruit and retain the highest qualified commissioned officers of the Washington state patrol appointed under RCW 43.43.020. The "Joint Transportation Committee Recruitment and Retention Study" dated January 7, 2016, outlines several recommendations to fulfill this intent. The study recommendations were broken down into several areas, with the Washington state patrol, office of financial management, select committee on pension policy, and the legislature all supporting their respective authorizations and control over their respective areas of responsibility and accountability. It is also the intent of the legislature in the 2017-2019 fiscal biennium to increase the thirty dollar vehicle license fee distribution to the state patrol for the salaries and benefits of state patrol officers, including troopers, sergeants, lieutenants, and captains, and make adjustments as needed in the 2019-2021 fiscal biennium.

Sec. 2. RCW 46.68.030 and 2015 3rd sp.s. c 43 s 601 are each amended to read as follows:

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

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

(a) ((~~$20.35~~)) $23.60 of each initial or renewal vehicle license fee must be deposited in the state patrol highway account in the motor vehicle fund, hereby created. Vehicle license fees, renewal vehicle license fees, and all other funds in the state patrol highway account must be for the sole use of the Washington state patrol for highway activities of the Washington state patrol, subject to proper appropriations and reappropriations.

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

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

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

NEW SECTION. **Sec. 3.** (1) The office of financial management must perform an organization study through a third-party independent consultant to implement the changes in the "Joint Transportation Committee Recruitment and Retention Study" dated January 7, 2016, affecting each organization in the study.

Washington state patrol management must work actively with the independent consultant to implement the recommended changes. An implementation report must be delivered to the transportation committees of the house of representatives and senate by September 1, 2016.

(2) The Washington state patrol must develop an action plan and implementation strategy for each of the recommendations that are outlined in the study with a report due to the transportation committees of the house of representatives and senate by November 15, 2016.

(3) The select committee on pension policy must review the pension-related items in the study and make recommendations to the governor's office and the legislature by November 1, 2016, on pension policy that will assist in recruiting and retaining state patrol commissioned officers.

NEW SECTION. **Sec. 4.** Effective July 1, 2016, Washington state patrol troopers, sergeants, lieutenants, and captains must receive a one-time five percent compensation increase. The pay increase must be based on the commissioned salary schedule that is effective July 1, 2016.

Sec. 5. RCW 43.43.380 and 1965 c 8 s 43.43.380 are each amended to read as follows:

The minimum monthly salary paid to state patrol ((~~officers shall be as follows: Officers, three hundred dollars; staff or technical sergeants, three hundred twenty-five dollars; line sergeants, three hundred fifty dollars; lieutenants, three hundred seventy-five dollars; captains, four hundred twenty-five dollars~~)) troopers and sergeants on July 1, 2017, must be competitive with law enforcement agencies within the boundaries of the state of Washington, guided by the results of a survey undertaken in the collective bargaining process during 2016. The salary levels on July 1, 2017, must be guided by the average of compensation paid to the corresponding rank from the Seattle police department, King county sheriff's office, Tacoma police department, Snohomish county sheriff's office, Spokane police department, and Vancouver police department. Compensation must be calculated using base salary, premium pay (a pay received by more than a majority of employees), education pay, and longevity pay. The compensation comparison data is based on the Washington state patrol and the law enforcement agencies listed in this section as of July 1, 2016. Increases in salary levels for captains and lieutenants that are collectively bargained must be proportionate to the increases in salaries for troopers and sergeants as a result of the survey described in this section.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.43 RCW to read as follows:

During the 2017-2019 collective bargaining process, the office of financial management, the Washington state patrol troopers association, and the Washington state patrol lieutenants association must evaluate regional differences in the cost of living to determine areas of the state where geographic pay may be needed. The negotiators must implement regional compensation adjustments, as appropriate.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.43 RCW to read as follows:

To ensure that it is adequately and thoroughly reaching potential recruits, the Washington state patrol must develop a comprehensive outreach and

marketing strategic plan that expands on the success of current strategies and looks for ways to tap into groups or individuals that do not currently show an interest in the state patrol or law enforcement as a career. The plan must include, but is not limited to, expanding marketing and outreach efforts online and through other media outlets and expanding recruitment relationships in respective communities. The plan must also include polling applicants about their application. Results from the polling must be tracked to determine the success of each outreach method.

NEW SECTION. **Sec. 8.** Section 2 of this act takes effect July 1, 2017.

Passed by the House March 9, 2016.
Passed by the Senate March 8, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 29

[Substitute House Bill 2884]

ALTERNATIVE FUEL COMMERCIAL VEHICLES--LEASED--TAX CREDIT

AN ACT Relating to modifying the business and occupation tax and public utility tax credits for alternative fuel commercial vehicles; amending RCW 82.04.4496 and 82.16.0496; and amending 2015 3rd sp.s. c 44 s 410 (uncodified).

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

Sec. 1. RCW 82.04.4496 and 2015 3rd sp.s. c 44 s 411 are each amended to read as follows:

(1)(a) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter according to the gross vehicle weight rating of the vehicle and the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle. The credit is limited, as set forth in the table below, to the lesser of the incremental cost amount or the maximum credit amount per vehicle purchased, and subject to a maximum annual credit amount per vehicle class.

Gross Vehicle Weight	Incremental Cost Amount	Maximum Credit Amount Per Vehicle	Maximum Annual Credit Per Vehicle Class
Up to 14,000 pounds	50% of incremental cost	$5,000	$2,000,000
14,001 to 26,500 pounds	50% of incremental cost	$10,000	$2,000,000
Above 26,500 pounds	50% of incremental cost	$20,000	$2,000,000

(b) On September 1st of each year any unused credits from any weight class identified in the table in (a) of this subsection must be made available to applicants applying for credits under any other weight class listed.

(c) The credit provided in this subsection (1) is ((~~not~~)) available for the lease of a vehicle. The credit amount for a leased vehicle is equal to the credit in this

subsection (1) multiplied by the lease reduction factor. The person claiming the credit for a leased vehicle must be the lessee as identified in the lease contract.

(2) A person who is taxable under this chapter is allowed, subject to the maximum annual credit per vehicle class in subsection (1)(a) of this section, a credit against the tax imposed in this chapter for the lesser of twenty-five thousand dollars or thirty percent of the costs of converting a commercial vehicle to be principally powered by a clean alternative fuel with a United States environmental protection agency certified conversion.

(3) The total credits under this section may not exceed the lesser of two hundred fifty thousand dollars or twenty-five vehicles per person per calendar year.

(4) A person may not receive credit under this section for amounts claimed as credits under chapter 82.16 RCW.

(5) Credits are available on a first-in-time basis. The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section, and RCW 82.16.0496, during any calendar year to exceed six million dollars. The department must provide notification on its web site monthly on the amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide annual limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(6) For the purposes of the limits provided in this section, a credit must be counted against such limits for the calendar year in which the credit is earned.

(7) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. No refunds may be granted for credits under this section.

(8) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) A quote or unexecuted copy of the purchase requisition or order for the vehicle;

(iii) The type of alternative fuel to be used by the vehicle;

(iv) The incremental cost of the alternative fuel system;

(v) The anticipated delivery date of the vehicle;

(vi) The estimated annual fuel use of the vehicle in its anticipated duties;

(vii) The gross weight of the vehicle; ((~~and~~))

(viii) For leased vehicles, a copy of the lease contract that includes the gross capitalized cost, residual value, and name of the lessee; and

(ix) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Within fifteen days of notice of credit availability from the department, provide notice of intent to claim the credit including:

(i) A copy of the order for the vehicle, including the total cost for the vehicle;

(ii) The anticipated delivery date of the vehicle, which must be within one hundred twenty days of acceptance of the credit; and

(iii) Any other information deemed necessary by the department to support administration or reporting of the program.

(c) Provide final documentation within fifteen days of receipt of the vehicle, including:

(i) A copy of the final invoice for the vehicle;

(ii) A copy of the factory build sheet or equivalent documentation;

(iii) The vehicle identification number of the vehicle;

(iv) The incremental cost of the alternative fuel system;

(v) Attestations signed by both the seller and purchaser of the vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and

(vi) Any other information deemed necessary by the department to support administration or reporting of the program.

(9) To administer the credits, the department must, at a minimum:

(a) Provide notification on its web site monthly of the amount of credits that have been applied for, claimed, and the amount remaining before the statewide annual limit is reached;

(b) Within fifteen days of receipt of the application, notify persons applying of the availability of tax credits in the year in which the vehicles applied for are anticipated to be delivered;

(c) Within fifteen days of receipt of the notice of intent to claim the tax credit, notify the applicant of the approval, denial, or missing information in their notice; and

(d) Within fifteen days of receipt of final documentation, review the documentation and notify the person applying of the acceptance of their final documentation.

(10) If a person fails to supply the information as required in subsection (8) of this section, the department must deny the application.

(11)(a) Taxpayers are only eligible for a credit under this section based on:

(i) Sales((~~, but not~~)) or leases((~~,~~)) of new commercial vehicles and qualifying used commercial vehicles with propulsion units that are principally powered by a clean alternative fuel; or

(ii) Costs to modify a commercial vehicle, including sales of tangible personal property incorporated into the vehicle and labor or service expenses incurred in modifying the vehicle, to be principally powered by a clean alternative fuel.

(b) A credit is earned when qualifying purchases are made or the lessee takes receipt of the qualifying commercial vehicle.

(12) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year.

(13)(a) Beginning November 25, 2015, and on the 25th of February, May, August, and November of each year thereafter, the department must notify the state treasurer of the amount of credits taken under this section as reported on returns filed with the department during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(b) On the last day of March, June, September, and December of each year, the state treasurer, based upon information provided by the department, must

transfer a sum equal to the dollar amount of the credit provided under this section from the multimodal transportation account to the general fund.

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

(a) "Commercial vehicle" means any commercial vehicle that is purchased by a private business and that is used exclusively in the transportation of commodities, merchandise, produce, refuse, freight, or animals, and that is displaying a Washington state license plate.

(b) "Clean alternative fuel" means electricity, dimethyl ether, hydrogen, methane, natural gas, liquefied natural gas, compressed natural gas, or propane.

(c) "Gross capitalized cost" means the agreed upon value of the commercial vehicle and including any other items a person pays over the lease term that are included in such cost.

(d) "Lease reduction factor" means the vehicle gross capitalized cost less the residual value, divided by the gross capitalized cost.

(e) "Qualifying used commercial vehicle" means vehicles that:

(i) Have an odometer reading of less than thirty thousand miles;

(ii) Are less than two years past their original date of manufacture;

(iii) Were modified after the initial purchase with a United States environmental protection agency certified conversion that would allow the propulsion units to be principally powered by a clean alternative fuel; and

(iv) Are being sold for the first time after modification.

(f) "Residual value" means the lease-end value of the vehicle as determined by the lessor, at the end of the lease term included in the lease contract.

(15) Credits may be earned under this section from January 1, 2016, through January 1, 2021, except for credits for leased vehicles, which may be earned from July 1, 2016, through January 1, 2021.

(16) Credits earned under this section may not be used after January 1, 2022.

Sec. 2. RCW 82.16.0496 and 2015 3rd sp.s. c 44 s 412 are each amended to read as follows:

(1)(a) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter according to the gross vehicle weight rating of the vehicle and the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle. The credit is limited, as set forth in the table below, to the lesser of the incremental cost amount or the maximum credit amount per vehicle purchased, and subject to a maximum annual credit amount per vehicle class.

Gross Vehicle Weight	Incremental Cost Amount	Maximum Credit Amount Per Vehicle	Maximum Annual Credit Per Vehicle Class
Up to 14,000 pounds	50% of incremental cost	$5,000	$2,000,000
14,001 to 26,500 pounds	50% of incremental cost	$10,000	$2,000,000
Above 26,500 pounds	50% of incremental cost	$20,000	$2,000,000

(b) On September 1st of each year any unused credits from any weight class identified in the table in (a) of this subsection must be made available to applicants applying for credits under any other weight class listed.

(c) The credit provided in this subsection (1) is ((~~not~~)) available for the lease of a vehicle. The credit amount for a leased vehicle is equal to the credit in this subsection (1) multiplied by the lease reduction factor. The person claiming the credit for a leased vehicle must be the lessee as identified in the lease contract.

(2) A person who is taxable under this chapter is allowed, subject to the maximum annual credit per vehicle class in subsection (1)(a) of this section, a credit against the tax imposed in this chapter for the lesser of twenty-five thousand dollars or thirty percent of the costs of converting a commercial vehicle to be principally powered by a clean alternative fuel with a United States environmental protection agency certified conversion.

(3) The total credits under this section may not exceed two hundred fifty thousand dollars or twenty-five vehicles per person per calendar year.

(4) A person may not receive credit under this section for amounts claimed as credits under chapter 82.04 RCW.

(5) Credits are available on a first-in-time basis. The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section, and RCW 82.04.4496, during any calendar year to exceed six million dollars. The department must provide notification on its web site monthly on the amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide annual limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(6) For the purposes of the limits provided in this section, a credit must be counted against such limits for the calendar year in which the credit is earned.

(7) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. No refunds may be granted for credits under this section.

(8) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) A quote or unexecuted copy of the purchase requisition or order for the vehicle;

(iii) The type of alternative fuel to be used by the vehicle;

(iv) The incremental cost of the alternative fuel system;

(v) The anticipated delivery date of the vehicle;

(vi) The estimated annual fuel use of the vehicle in its anticipated duties;

(vii) The gross weight of the vehicle; ((~~and~~))

(viii) For leased vehicles, a copy of the lease contract that includes the gross capitalized cost, residual value, and name of the lessee; and

(ix) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Within fifteen days of notice of credit availability from the department, provide notice of intent to claim the credit including:

(i) A copy of the order for the vehicle, including the total cost for the vehicle;

(ii) The anticipated delivery date of the vehicle, which must be within one hundred twenty days of acceptance of the credit; and

(iii) Any other information deemed necessary by the department to support administration or reporting of the program.

(c) Provide final documentation within fifteen days of receipt of the vehicle, including:

(i) A copy of the final invoice for the vehicle;

(ii) A copy of the factory build sheet or equivalent documentation;

(iii) The vehicle identification number of the vehicle;

(iv) The incremental cost of the alternative fuel system;

(v) Attestations signed by both the seller and purchaser of the vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and

(vi) Any other information deemed necessary by the department to support administration or reporting of the program.

(9) To administer the credits, the department must, at a minimum:

(a) Provide notification on its web site monthly of the amount of credits that have been applied for, claimed, and the amount remaining before the statewide annual limit is reached;

(b) Within fifteen days of receipt of the application, notify persons applying of the availability of tax credits in the year in which the vehicles applied for are anticipated to be delivered;

(c) Within fifteen days of receipt of the notice of intent to claim the tax credit, notify the applicant of the approval, denial, or missing information in their notice; and

(d) Within fifteen days of receipt of final documentation, review the documentation and notify the person applying of the acceptance of their final documentation.

(10) If a person fails to supply the information as required in subsection (8) of this section, the department must deny the application.

(11)(a) Taxpayers are only eligible for a credit under this section based on:

(i) Sales((~~, but not~~)) or leases((~~,~~)) of new commercial vehicles and qualifying used commercial vehicles with propulsion units that are principally powered by a clean alternative fuel; or

(ii) Costs to modify a commercial vehicle, including sales of tangible personal property incorporated into the vehicle and labor or service expenses incurred in modifying the vehicle, to be principally powered by a clean alternative fuel.

(b) A credit is earned when qualifying purchases are made or the lessee takes receipt of the qualifying commercial vehicle.

(12) The definitions in RCW 82.04.4496 apply to this section.

(13) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year.

(14)(a) Beginning November 25, 2015, and on the 25th of February, May, August, and November of each year thereafter, the department must notify the

state treasurer of the amount of credits taken under this section as reported on returns filed with the department during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(b) On the last day of March, June, September, and December of each year, the state treasurer, based upon information provided by the department, must transfer a sum equal to the dollar amount of the credit provided under this section from the multimodal transportation account to the general fund.

(15) Credits may be earned under this section from January 1, 2016, through January 1, 2021, except for credits for leased vehicles, which may be earned from July 1, 2016, through January 1, 2021.

(16) Credits earned under this section may not be used after January 1, 2022.

Sec. 3. 2015 3rd sp.s. c 44 s 410 (uncodified) is amended to read as follows:

(1) This section and sections 411 and 412 of this act may be known and cited as the clean fuel vehicle incentives act.

(2) The legislature finds that cleaner fuels reduce greenhouse gas emissions in the transportation sector and lead to a more sustainable environment. The legislature further finds that alternative fuel vehicles cost more than comparable models of conventional fuel vehicles, particularly in the commercial market. The legislature further finds the higher cost of alternative fuel vehicles incentivize companies to purchase comparable models of conventional fuel vehicles. The legislature further finds that other states provide various tax credits and exemptions. The legislature further finds incentivizing businesses to purchase cleaner, alternative fuel vehicles is a collaborative step toward meeting the state's climate and environmental goals.

(3)(a) This subsection is the tax preference performance statement for the clean alternative fuel vehicle tax credits provided in ((~~sections 411 and 412 of this act~~)) RCW 82.04.4496 and 82.16.0496. 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 induce certain designated behavior by taxpayers.

(c) It is the legislature's specific public policy objective to provide a credit against business and occupation and public utility taxes to increase sales of commercial vehicles that use clean alternative fuel to ten percent of commercial vehicle sales by 2021.

(d) To measure the effectiveness of the credit provided in this act in achieving the specific public policy objective described in (c) of this subsection, the joint legislative audit and review committee must, at minimum, evaluate the changes in the number of commercial vehicles that are powered by clean alternative fuel that are registered in Washington state.

(e)(i) The department of licensing must provide data needed for the joint legislative audit and review committee's analysis in (d) of this subsection.

(ii) In addition to the data source described under (e)(i) of this subsection, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under (d) of this subsection.

Passed by the House February 17, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 30

[Senate Bill 6200]

SPECIAL LICENSE PLATE--WASHINGTON'S FISH COLLECTION

AN ACT Relating to providing funding for steelhead conservation through the issuance of Washington's fish license plate collection; amending RCW 46.68.425; reenacting and amending RCW 46.18.200, 46.17.220, and 77.12.170; adding a new section to chapter 46.04 RCW; and providing an effective date.

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

Sec. 1. RCW 46.18.200 and 2014 c 77 s 1 and 2014 c 6 s 1 are each reenacted and amended to read as follows:

(1) Special license plate series reviewed and approved by the department:

(a) May be issued in lieu of standard issue or personalized license plates for vehicles required to display one and two license plates unless otherwise specified;

(b) Must be issued under terms and conditions established by the department;

(c) Must not be issued for vehicles registered under chapter 46.87 RCW; and

(d) Must display a symbol or artwork approved by the department.

(2) The department approves and shall issue the following special license plates:

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
4-H	Displays the "4-H" logo.
Armed forces collection	Recognizes the contribution of veterans, active duty military personnel, reservists, and members of the national guard, and includes six separate designs, each containing a symbol representing a different branch of the armed forces to include army, navy, air force, marine corps, coast guard, and national guard.
Breast cancer awareness	Displays a pink ribbon symbolizing breast cancer awareness.
Endangered wildlife	Displays a symbol or artwork symbolizing endangered wildlife in Washington state.
Gonzaga University alumni association	Recognizes the Gonzaga University alumni association.

Helping kids speak	Recognizes an organization that supports programs that provide no-cost speech pathology programs to children.
Keep kids safe	Recognizes efforts to prevent child abuse and neglect.
Law enforcement memorial	Honors law enforcement officers in Washington killed in the line of duty.
Music matters	Displays the "Music Matters" logo.
Professional firefighters and paramedics	Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.
Seattle Seahawks	Displays the "Seattle Seahawks" logo.
Seattle Sounders FC	Displays the "Seattle Sounders FC" logo.
Seattle University	Recognizes Seattle University.
Share the road	Recognizes an organization that promotes bicycle safety and awareness education.
Ski & ride Washington	Recognizes the Washington snowsports industry.
State flower	Recognizes the Washington state flower.
Volunteer firefighters	Recognizes volunteer firefighters.
Washington lighthouses	Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.
Washington state parks	Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.
Washington's national park fund	Builds awareness of Washington's national parks and supports priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.
Washington's fish collection	Recognizes Washington's fish.
Washington's wildlife collection	Recognizes Washington's wildlife.

We love our pets	Recognizes an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets to reduce pet overpopulation.
Wild on Washington	Symbolizes wildlife viewing in Washington state.

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

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

NEW SECTION. **Sec. 2.** A new section is added to chapter 46.04 RCW to read as follows:

"Washington's fish license plate collection" means the collection of fish license plate designs. Each license plate design displays a distinct symbol or artwork, to include steelhead, recognizing the fish of Washington.

Sec. 3. RCW 46.17.220 and 2014 c 77 s 2 and 2014 c 6 s 2 are each reenacted and amended to read as follows:

(1) In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter 46.16A RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

PLATE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(a) 4-H	$ 40.00	$ 30.00	RCW 46.68.420
(b) Amateur radio license	$ 5.00	N/A	RCW 46.68.070
(c) Armed forces	$ 40.00	$ 30.00	RCW 46.68.425
(d) Baseball stadium	$ 40.00	$ 30.00	Subsection (2) of this section
(e) Breast cancer awareness	$ 40.00	$ 30.00	RCW 46.68.425
(f) Collector vehicle	$ 35.00	N/A	RCW 46.68.030
(g) Collegiate	$ 40.00	$ 30.00	RCW 46.68.430

(h) Endangered wildlife	$ 40.00	$ 30.00	RCW 46.68.425
(i) Gonzaga University alumni association	$ 40.00	$ 30.00	RCW 46.68.420
(j) Helping kids speak	$ 40.00	$ 30.00	RCW 46.68.420
(k) Horseless carriage	$ 35.00	N/A	RCW 46.68.030
(l) Keep kids safe	$ 45.00	$ 30.00	RCW 46.68.425
(m) Law enforcement memorial	$ 40.00	$ 30.00	RCW 46.68.420
(n) Military affiliate radio system	$ 5.00	N/A	RCW 46.68.070
(o) Music matters	$ 40.00	$ 30.00	RCW 46.68.420
(p) Professional firefighters and paramedics	$ 40.00	$ 30.00	RCW 46.68.420
(q) Ride share	$ 25.00	N/A	RCW 46.68.030
(r) Seattle Seahawks	$ 40.00	$ 30.00	RCW 46.68.420
(s) Seattle Sounders FC	$ 40.00	$ 30.00	RCW 46.68.420
(t) Seattle University	$ 40.00	$ 30.00	RCW 46.68.420
(u) Share the road	$ 40.00	$ 30.00	RCW 46.68.420
(v) Ski & ride Washington	$ 40.00	$ 30.00	RCW 46.68.420
(w) Square dancer	$ 40.00	N/A	RCW 46.68.070
(x) State flower	$ 40.00	$ 30.00	RCW 46.68.420
(y) Volunteer firefighters	$ 40.00	$ 30.00	RCW 46.68.420
(z) Washington lighthouses	$ 40.00	$ 30.00	RCW 46.68.420
(aa) Washington state parks	$ 40.00	$ 30.00	RCW 46.68.425
(bb) Washington's fish collection	$ 40.00	$ 30.00	RCW 46.68.425
(cc) Washington's national parks	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(ee)~~))) (dd) Washington's wildlife collection	$ 40.00	$ 30.00	RCW 46.68.425
(((~~(dd)~~))) (ee) We love our pets	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(ee)~~))) (ff) Wild on Washington	$ 40.00	$ 30.00	RCW 46.68.425

(2) After deducting administration and collection expenses for the sale of baseball stadium license plates, the remaining proceeds must be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

Sec. 4. RCW 46.68.425 and 2014 c 77 s 3 are each amended to read as follows:

(1) The department shall:

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

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle fund until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fees to the following accounts by special license plate type:

SPECIAL LICENSE PLATE TYPE	ACCOUNT	CONDITIONS FOR USE OF FUNDS
Armed forces	RCW 43.60A.140	N/A
Breast cancer awareness	RCW 43.70.327	Must be used only by the department of health for efforts consistent with the breast, cervical, and colon health program
Endangered wildlife	RCW 77.12.170	Must be used only for the department of fish and wildlife's endangered wildlife program activities
Keep kids safe	RCW 43.121.100	As specified in RCW 43.121.100
Washington state parks	RCW 79A.05.059	Provide public educational opportunities and enhancement of Washington state parks
Washington's fish collection	RCW 77.12.170	Only for the department of fish and wildlife's use to support steelhead species management activities including, but not limited to, activities supporting conservation, recovery, and research to promote healthy, fishable steelhead
Washington's wildlife collection	RCW 77.12.170	Only for the department of fish and wildlife's game species management activities
Wild on Washington	RCW 77.12.170	Dedicated to the department of fish and wildlife's watchable wildlife activities, as defined in RCW 77.32.560

Sec. 5. RCW 77.12.170 and 2011 c 339 s 3, 2011 c 320 s 23, and 2011 c 171 s 112 are each reenacted and amended to read as follows:

(1) There is established in the state treasury the state wildlife account which consists of moneys received from:

(a) Rentals or concessions of the department;

(b) The sale of real or personal property held for department purposes, unless the property is seized or recovered through a fish, shellfish, or wildlife enforcement action;

(c) The assessment of administrative penalties;

(d) The sale of licenses, permits, tags, and stamps required by chapter 77.32 RCW, RCW 77.65.490, and application fees;

(e) Fees for informational materials published by the department;

(f) Fees for personalized vehicle, Wild on Washington, and Endangered Wildlife license plates ((~~and~~)), Washington's Wildlife license plate collection, and Washington's fish license plate collection as provided in chapter 46.17 RCW;

(g) Articles or wildlife sold by the director under this title;

(h) Compensation for damage to department property or wildlife losses or contributions, gifts, or grants received under RCW 77.12.320. However, this excludes fish and shellfish overages, and court-ordered restitution or donations associated with any fish, shellfish, or wildlife enforcement action, as such moneys must be deposited pursuant to RCW 77.15.425;

(i) Excise tax on anadromous game fish collected under chapter 82.27 RCW;

(j) The department's share of revenues from auctions and raffles authorized by the commission;

(k) The sale of watchable wildlife decals under RCW 77.32.560; ((~~and~~))

(l) Moneys received from the recreation access pass account created in RCW 79A.80.090 must be dedicated to stewardship, operations, and maintenance of department lands used for public recreation purposes; and

(m) Donations received by the director under RCW 77.12.039.

(2) State and county officers receiving any moneys listed in subsection (1) of this section shall deposit them in the state treasury to be credited to the state wildlife account.

NEW SECTION. **Sec. 6.** This act takes effect January 1, 2017.

Passed by the Senate February 15, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 31

[Substitute Senate Bill 6254]

PURPLE HEART LICENSE PLATES--ADDITIONAL MOTOR VEHICLES

AN ACT Relating to Purple Heart license plates; amending RCW 46.18.280, 46.68.425, and 43.60A.140; reenacting and amending RCW 46.17.220; and providing an effective date.

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

Sec. 1. RCW 46.18.280 and 2011 c 332 s 8 are each amended to read as follows:

(1) A registered owner who has been awarded a Purple Heart medal by any branch of the United States armed forces, including the merchant marines and the women's air forces service pilots may apply to the department for special license plates for use on ((~~only one~~)) a motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department, and owned by the qualified applicant. The applicant must:

(a) Be a resident of this state;

(b) Have been wounded during one of this nation's wars or conflicts identified in RCW 41.04.005;

(c) Have received an honorable discharge from the United States armed forces;

(d) Provide a copy of the armed forces document showing the recipient was awarded the Purple Heart medal;

(e) Be recorded as the registered owner of the motor vehicle on which the Purple Heart ((~~survivor~~)) license plate or plates will be displayed; and

(f) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Purple Heart license plates must be issued without the payment of any special license plate fee for one motor vehicle. For other motor vehicles, qualified applicants may purchase Purple Heart license plates for the fee required under RCW 46.17.220(1)(p).

(3) Purple Heart license plates may be issued to the surviving spouse or domestic partner of a Purple Heart recipient who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new domestic partnership, he or she must return the special license plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(4) A Purple Heart license plate or plates may be transferred from one motor vehicle to another motor vehicle owned by the Purple Heart recipient or the surviving spouse or domestic partner as described in subsection (3) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

Sec. 2. RCW 46.17.220 and 2014 c 77 s 2 and 2014 c 6 s 2 are each reenacted and amended to read as follows:

(1) In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter 46.16A RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

PLATE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(a) 4-H	$ 40.00	$ 30.00	RCW 46.68.420
(b) Amateur radio license	$ 5.00	N/A	RCW 46.68.070
(c) Armed forces	$ 40.00	$ 30.00	RCW 46.68.425
(d) Baseball stadium	$ 40.00	$ 30.00	Subsection (2) of this section
(e) Breast cancer awareness	$ 40.00	$ 30.00	RCW 46.68.425

(f) Collector vehicle	$ 35.00	N/A	RCW 46.68.030
(g) Collegiate	$ 40.00	$ 30.00	RCW 46.68.430
(h) Endangered wildlife	$ 40.00	$ 30.00	RCW 46.68.425
(i) Gonzaga University alumni association	$ 40.00	$ 30.00	RCW 46.68.420
(j) Helping kids speak	$ 40.00	$ 30.00	RCW 46.68.420
(k) Horseless carriage	$ 35.00	N/A	RCW 46.68.030
(l) Keep kids safe	$ 45.00	$ 30.00	RCW 46.68.425
(m) Law enforcement memorial	$ 40.00	$ 30.00	RCW 46.68.420
(n) Military affiliate radio system	$ 5.00	N/A	RCW 46.68.070
(o) Music matters	$ 40.00	$ 30.00	RCW 46.68.420
(p) Purple Heart	$ 40.00	$ 30.00	RCW 46.68.425
(q) Professional firefighters and paramedics	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(q)~~))) (r) Ride share	$ 25.00	N/A	RCW 46.68.030
(((~~(r)~~))) (s) Seattle Seahawks	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(s)~~))) (t) Seattle Sounders FC	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(t)~~))) (u) Seattle University	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(u)~~))) (v) Share the road	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(v)~~))) (w) Ski & ride Washington	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(w)~~))) (x) Square dancer	$ 40.00	N/A	RCW 46.68.070
(((~~(x)~~))) (y) State flower	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(y)~~))) (z) Volunteer firefighters	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(z)~~))) (aa) Washington lighthouses	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(aa)~~))) (bb) Washington state parks	$ 40.00	$ 30.00	RCW 46.68.425
(((~~(bb)~~))) (cc) Washington's national parks	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(cc)~~))) (dd) Washington's wildlife collection	$ 40.00	$ 30.00	RCW 46.68.425
(((~~(dd)~~))) (ee) We love our pets	$ 40.00	$ 30.00	RCW 46.68.420
(((~~(ee)~~))) (ff) Wild on Washington	$ 40.00	$ 30.00	RCW 46.68.425

(2) After deducting administration and collection expenses for the sale of baseball stadium license plates, the remaining proceeds must be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

Sec. 3. RCW 46.68.425 and 2014 c 77 s 3 are each amended to read as follows:

(1) The department shall:

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

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle fund until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fees to the following accounts by special license plate type:

SPECIAL LICENSE PLATE TYPE	ACCOUNT	CONDITIONS FOR USE OF FUNDS
Armed forces	RCW 43.60A.140	((~~N/A~~)) As specified in RCW 43.60A.140(4)
Breast cancer awareness	RCW 43.70.327	Must be used only by the department of health for efforts consistent with the breast, cervical, and colon health program
Endangered wildlife	RCW 77.12.170	Must be used only for the department of fish and wildlife's endangered wildlife program activities
Keep kids safe	RCW 43.121.100	As specified in RCW 43.121.100
Purple Heart	RCW 43.60A.140	As specified in RCW 43.60A.140(4)
Washington state parks	RCW 79A.05.059	Provide public educational opportunities and enhancement of Washington state parks
Washington's wildlife collection	RCW 77.12.170	Only for the department of fish and wildlife's game species management activities
Wild on Washington	RCW 77.12.170	Dedicated to the department of fish and wildlife's watchable wildlife activities, as defined in RCW 77.32.560

Sec. 4. RCW 43.60A.140 and 2010 c 161 s 1106 are each amended to read as follows:

(1) The veterans stewardship account is created in the custody of the state treasurer. Disbursements of funds must be on the authorization of the director or the director's designee, and only for the purposes stated in subsection (4) of this section. In order to maintain an effective expenditure and revenue control, funds are subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditure of the funds.

(2) The department may request and accept nondedicated contributions, grants, or gifts in cash or otherwise, including funds generated by the issuance of the armed forces license plate collection under chapter 46.18 RCW.

(3) All receipts from the sale of armed forces license plates and Purple Heart license plates as required under RCW ((~~46.17.220(1)(b)~~)) 46.68.425(2) must be deposited into the veterans stewardship account.

(4) All moneys deposited into the veterans stewardship account must be used by the department for activities that benefit veterans or their families, including but not limited to, providing programs and services for homeless veterans; establishing memorials honoring veterans; and maintaining a future state veterans' cemetery. Funds from the account may not be used to supplant existing funds received by the department.

NEW SECTION. **Sec. 5.** This act takes effect July 1, 2017.

Passed by the Senate February 12, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 32

[Senate Bill 6299]

TRANSPORTATION REVENUE--MANIFEST 2015 DRAFTING ERRORS

AN ACT Relating to correcting certain manifest drafting errors in chapter 44, Laws of 2015 3rd sp. sess. (transportation revenue); amending RCW 46.20.202 and 82.70.040; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** During the third special legislative session of 2015, the legislature passed Second Engrossed Substitute Senate Bill No. 5987 (chapter 44, Laws of 2015 3rd sp. sess.), a significant transportation revenue bill intended to provide needed transportation funding throughout the state. However, since the enactment of that legislation, certain drafting errors were discovered within the bill resulting in some provisions being enacted contrary to legislative intent. Therefore, it is the intent of the legislature to simply correct manifest drafting errors in order to conform certain provisions with the original legislative intent of Second Engrossed Substitute Senate Bill No. 5987. It is not the intent of the legislature to alter the intended substantive policy enacted in Second Engrossed Substitute Senate Bill No. 5987, but rather to make technical changes that correct certain drafting errors.

Sec. 2. RCW 46.20.202 and 2015 3rd sp.s. c 44 s 209 are each amended to read as follows:

(1) The department may enter into a memorandum of understanding with any federal agency for the purposes of facilitating the crossing of the border between the state of Washington and the Canadian province of British Columbia.

(2) The department may enter into an agreement with the Canadian province of British Columbia for the purposes of implementing a border-crossing initiative.

(3)(a) The department may issue an enhanced driver's license or identicard for the purposes of crossing the border between the state of Washington and the Canadian province of British Columbia to an applicant who provides the department with proof of: United States citizenship, identity, and state residency. The department shall continue to offer a standard driver's license and identicard. If the department chooses to issue an enhanced driver's license, the department must allow each applicant to choose between a standard driver's license or identicard, or an enhanced driver's license or identicard.

(b) The department shall implement a one-to-many biometric matching system for the enhanced driver's license or identicard. An applicant for an enhanced driver's license or identicard shall submit a biometric identifier as designated by the department. The biometric identifier must be used solely for the purpose of verifying the identity of the holders and for any purpose set out in RCW 46.20.037. Applicants are required to sign a declaration acknowledging their understanding of the one-to-many biometric match.

(c) The enhanced driver's license or identicard must include reasonable security measures to protect the privacy of Washington state residents, including reasonable safeguards to protect against unauthorized disclosure of data about Washington state residents. If the enhanced driver's license or identicard includes a radio frequency identification chip, or similar technology, the department shall ensure that the technology is encrypted or otherwise secure from unauthorized data access.

(d) The requirements of this subsection are in addition to the requirements otherwise imposed on applicants for a driver's license or identicard. The department shall adopt such rules as necessary to meet the requirements of this subsection. From time to time the department shall review technological innovations related to the security of identity cards and amend the rules related to enhanced driver's licenses and identicards as the director deems consistent with this section and appropriate to protect the privacy of Washington state residents.

(e) Notwithstanding RCW 46.20.118, the department may make images associated with enhanced drivers' licenses or identicards from the negative file available to United States customs and border agents for the purposes of verifying identity.

(4)(a) Between July 15, 2015, and June 30, 2016, the fee for an enhanced driver's license or enhanced identicard is eighteen dollars, which is in addition to the fees for any regular driver's license or identicard. If the enhanced driver's license or enhanced identicard is issued, renewed, or extended for a period other than six years, the fee for each class is three dollars for each year that the enhanced driver's license or enhanced identicard is issued, renewed, or extended.

(b) Beginning July 1, 2016, the fee for an enhanced driver's license or enhanced identicard is fifty-four dollars, which is in addition to the fees for any regular driver's license or identicard. If the enhanced driver's license or enhanced

identicard is issued, renewed, or extended for a period other than six years, the fee for each class is nine dollars for each year that the enhanced driver's license or enhanced identicard is issued, renewed, or extended.

(5) The enhanced driver's license and enhanced identicard fee under this section must be deposited into the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 209, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

Sec. 3. RCW 82.70.040 and 2015 3rd sp.s. c 44 s 414 are each amended to read as follows:

(1)(a)((~~(i)~~)) The department must keep a running total of all credits allowed under RCW 82.70.020 during each fiscal year. The department may not allow any credits that would cause the total amount allowed to exceed two million seven hundred fifty thousand dollars in any fiscal year.

((~~(ii) 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.~~))

(b) If the total amount of credit applied for by all applicants in any year exceeds the limit in this subsection, the department must 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) 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. For credits approved by the department through June 30, 2015, the approved credit may be carried forward and used for tax reporting periods through December 31, 2016. Credits approved after June 30, 2015, must be used for tax reporting periods within the calendar year for which they are approved by the department and may not be carried forward to subsequent tax reporting periods. 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 may be approved for tax credits under RCW 82.70.020 in excess of one 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, 2024.

(5) No person is eligible for tax credits under RCW 82.70.020 if the additional revenues for the multimodal transportation account created by chapter 361, Laws of 2003 are terminated.

NEW SECTION. **Sec. 4.** This act is remedial in nature and applies retroactively to July 15, 2015.

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

Passed by the Senate February 9, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 33

[Substitute Senate Bill 6358]

RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS--SAFETY AND SECURITY OVERSIGHT

AN ACT Relating to rail fixed guideway public transportation system safety and security oversight, requiring rule making; amending RCW 81.112.180, 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, 81.104.015, and 81.104.115; and declaring an emergency.

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

Sec. 1. RCW 81.112.180 and 2007 c 422 s 6 are each amended to read as follows:

(1) Each regional transit authority that owns or operates a rail fixed guideway public transportation system as defined in RCW 81.104.015 shall submit a system safety program plan and a system security and emergency preparedness plan for that guideway to the state department of transportation by September 1, 1999, or at least one hundred eighty calendar days before beginning operations or instituting significant revisions to its plans. These plans must describe the authority's procedures for (a) reporting and investigating ((~~reportable accidents, unacceptable hazardous conditions, and security breaches~~)) any reportable incident, accident, or security breach and identifying and resolving hazards or security vulnerabilities discovered during planning, design, construction, testing, or operations, (b) developing and submitting corrective action plans and annual safety and security audit reports, (c) facilitating on-site safety and security reviews by the state department of transportation and the federal transit administration, and (d) addressing passenger and employee safety and security. The plans must, at a minimum, conform to the standards adopted by the state department of transportation as set forth in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. If required by the department, the regional transit

authority shall revise its plans to incorporate the department's review comments within sixty days after their receipt, and resubmit its revised plans for review.

(2) Each regional transit authority shall implement and comply with its system safety program plan and system security and emergency preparedness plan. The regional transit authority shall perform internal safety and security audits to evaluate its compliance with the plans, and submit its audit schedule to the department of transportation ((~~no later than December 15th each year~~)) pursuant to the requirements in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. The regional transit authority shall prepare an annual report for its internal safety and security audits undertaken in the prior year and submit it to the department no later than February 15th. ((~~This~~)) The department shall establish the requirements for the annual report. The contents of the annual report must include, at a minimum, the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity, and the results of each audit in terms of the adequacy and effectiveness of the plans.

(3) Each regional transit authority shall notify the department of transportation ((~~within two hours of an occurrence of a reportable accident, unacceptable hazardous condition, or security breach~~)), pursuant to the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, any reportable incident, accident, security breach, hazard, or security vulnerability. The department may adopt rules further defining ((~~a reportable accident, unacceptable hazardous condition, or security breach~~)) any reportable incident, accident, security breach, hazard, or security vulnerability. The regional transit authority shall investigate ((~~all reportable accidents, unacceptable hazardous conditions, or security breaches~~)) any reportable incident, accident, security breach, hazard, or security vulnerability and provide a written investigation report to the department ((~~within forty-five calendar days after the reportable accident, unacceptable hazardous condition, or security breach~~)) as described in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(4) The system security and emergency preparedness plan required in subsection (1)((~~(d)~~)) of this section is exempt from public disclosure under chapter 42.56 RCW. However, the system safety program plan as described in this section is not subject to this exemption.

Sec. 2. RCW 35.21.228 and 2007 c 422 s 1 are each amended to read as follows:

(1) Each city or town that owns or operates a rail fixed guideway public transportation system as defined in RCW 81.104.015 shall submit a system safety program plan and a system security and emergency preparedness plan for that guideway to the state department of transportation by September 1, 1999, or at least one hundred eighty calendar days before beginning operations or

instituting significant revisions to its plans. These plans must describe the city's procedures for (a) reporting and investigating ((~~reportable accidents, unacceptable hazardous conditions, and security breaches~~)) any reportable incident, accident, or security breach and identifying and resolving hazards or security vulnerabilities discovered during planning, design, construction, testing, or operations, (b) developing and submitting corrective action plans and annual safety and security audit reports, (c) facilitating on-site safety and security reviews by the state department of transportation and the federal transit administration, and (d) addressing passenger and employee safety and security. The plans must, at a minimum, conform to the standards adopted by the state department of transportation as set forth in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. If required by the department, the city or town shall revise its plans to incorporate the department's review comments within sixty days after their receipt, and resubmit its revised plans for review.

(2) Each city or town shall implement and comply with its system safety program plan and system security and emergency preparedness plan. The city or town shall perform internal safety and security audits to evaluate its compliance with the plans, and submit its audit schedule to the department of transportation ((~~no later than December 15th each year~~)) pursuant to the requirements in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. The city or town shall prepare an annual report for its internal safety and security audits undertaken in the prior year and submit it to the department no later than February 15th. ((~~This~~)) The department shall establish the requirements for the annual report. The contents of the annual report must include, at a minimum, the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity, and the results of each audit in terms of the adequacy and effectiveness of the plans.

(3) Each city or town shall notify the department of transportation ((~~within two hours of an occurrence of a reportable accident, unacceptable hazardous condition, or security breach~~)), pursuant to the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, any reportable incident, accident, security breach, hazard, or security vulnerability. The department may adopt rules further defining ((~~a reportable accident, unacceptable hazardous condition, or security breach~~)) any reportable incident, accident, security breach, hazard, or security vulnerability. The city or town shall investigate ((~~all reportable accidents, unacceptable hazardous conditions, or security breaches~~)) any reportable incident, accident, security breach, hazard, or security vulnerability and provide a written investigation report to the department ((~~within forty-five calendar days after the reportable accident, unacceptable hazardous condition, or security breach~~)) as described in the most current version of the Washington state rail safety oversight program standard

manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(4) The system security and emergency preparedness plan required in subsection (1)(((~~d~~))) of this section is exempt from public disclosure under chapter 42.56 RCW. However, the system safety program plan as described in this section is not subject to this exemption.

Sec. 3. RCW 35A.21.300 and 2007 c 422 s 2 are each amended to read as follows:

(1) Each code city that owns or operates a rail fixed guideway public transportation system as defined in RCW 81.104.015 shall submit a system safety program plan and a system security and emergency preparedness plan for that guideway to the state department of transportation by September 1, 1999, or at least one hundred eighty calendar days before beginning operations or instituting significant revisions to its plans. These plans must describe the code city's procedures for (a) reporting and investigating ((~~reportable accidents, unacceptable hazardous conditions, and security breaches~~)) any reportable incident, accident, or security breach and identifying and resolving hazards or security vulnerabilities discovered during planning, design, construction, testing, or operations, (b) developing and submitting corrective action plans and annual safety and security audit reports, (c) facilitating on-site safety and security reviews by the state department of transportation and the federal transit administration, and (d) addressing passenger and employee safety and security. The plans must, at a minimum, conform to the standards adopted by the state department of transportation as set forth in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. If required by the department, the code city shall revise its plans to incorporate the department's review comments within sixty days after their receipt, and resubmit its revised plans for review.

(2) Each code city shall implement and comply with its system safety program plan and system security and emergency preparedness plan. The code city shall perform internal safety and security audits to evaluate its compliance with the plans, and submit its audit schedule to the department of transportation ((~~no later than December 15th each year~~)) pursuant to the requirements in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. The code city shall prepare an annual report for its internal safety and security audits undertaken in the prior year and submit it to the department no later than February 15th. ((~~This~~)) The department shall establish the requirements for the annual report. The contents of the annual report must include, at a minimum, the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity, and the results of each audit in terms of the adequacy and effectiveness of the plans.

(3) Each code city shall notify the department of transportation ((~~within two hours of an occurrence of a reportable accident, unacceptable hazardous~~

~~condition, or security breach~~)), pursuant to the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, any reportable incident, accident, security breach, hazard, or security vulnerability. The department may adopt rules further defining ((~~a reportable accident, unacceptable hazardous condition, or security breach~~)) any reportable incident, accident, security breach, hazard, or security vulnerability. The code city shall investigate ((~~all reportable accidents, unacceptable hazardous conditions, or security breaches~~)) any reportable incident, accident, security breach, hazard, or security vulnerability and provide a written investigation report to the department ((~~within forty-five calendar days after the reportable accident, unacceptable hazardous condition, or security breach~~)) as described in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(4) The system security and emergency preparedness plan required in subsection (1)(((~~(d)~~))) of this section is exempt from public disclosure under chapter 42.56 RCW. However, the system safety program plan as described in this section is not subject to this exemption.

Sec. 4. RCW 36.01.210 and 2007 c 422 s 3 are each amended to read as follows:

(1) Each county functioning under chapter 36.56 RCW that owns or operates a rail fixed guideway public transportation system as defined in RCW 81.104.015 shall submit a system safety program plan and a system security and emergency preparedness plan for that guideway to the state department of transportation by September 1, 1999, or at least one hundred eighty calendar days before beginning operations or instituting significant revisions to its plans. These plans must describe the county's procedures for (a) reporting and investigating ((~~reportable accidents, unacceptable hazardous conditions, and security breaches~~)) any reportable incident, accident, or security breach and identifying and resolving hazards or security vulnerabilities discovered during planning, design, construction, testing, or operations, (b) developing and submitting corrective action plans and annual safety and security audit reports, (c) facilitating on-site safety and security reviews by the state department of transportation and the federal transit administration, and (d) addressing passenger and employee safety and security. The plans must, at a minimum, conform to the standards adopted by the state department of transportation as set forth in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. If required by the department, the county shall revise its plans to incorporate the department's review comments within sixty days after their receipt, and resubmit its revised plans for review.

(2) Each county functioning under chapter 36.56 RCW shall implement and comply with its system safety program plan and system security and emergency preparedness plan. The county shall perform internal safety and security audits to evaluate its compliance with the plans, and submit its audit schedule to the

department of transportation ((~~no later than December 15th each year~~)) pursuant to the requirements in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. The county shall prepare an annual report for its internal safety and security audits undertaken in the prior year and submit it to the department no later than February 15th. ((~~This~~)) The department shall establish the requirements for the annual report. The contents of the annual report must include, at a minimum, the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity, and the results of each audit in terms of the adequacy and effectiveness of the plans.

(3) Each county shall notify the department of transportation ((~~within two hours of an occurrence of a reportable accident, unacceptable hazardous condition, or security breach~~)), pursuant to the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, any reportable incident, accident, security breach, hazard, or security vulnerability. The department may adopt rules further defining ((~~a reportable accident, unacceptable hazardous condition, or security breach~~)) any reportable incident, accident, security breach, hazard, or security vulnerability. The county shall investigate ((~~all reportable accidents, unacceptable hazardous conditions, or security breaches~~)) any reportable incident, accident, security breach, hazard, or security vulnerability and provide a written investigation report to the department ((~~within forty-five calendar days after the reportable accident, unacceptable hazardous condition, or security breach~~)) as described in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(4) The system security and emergency preparedness plan required in subsection (1)(((~~(d)~~))) of this section is exempt from public disclosure under chapter 42.56 RCW. However, the system safety program plan as described in this section is not subject to this exemption.

Sec. 5. RCW 36.57.120 and 2007 c 422 s 4 are each amended to read as follows:

(1) Each county transportation authority that owns or operates a rail fixed guideway public transportation system as defined in RCW 81.104.015 shall submit a system safety program plan and a system security and emergency preparedness plan for that guideway to the state department of transportation by September 1, 1999, or at least one hundred eighty calendar days before beginning operations or instituting significant revisions to its plans. These plans must describe the county transportation authority's procedures for (a) reporting and investigating ((~~reportable accidents, unacceptable hazardous conditions, and security breaches~~)) any reportable incident, accident, or security breach and identifying and resolving hazards or security vulnerabilities discovered during planning, design, construction, testing, or operations, (b) developing and submitting corrective action plans and annual safety and security audit reports,

(c) facilitating on-site safety and security reviews by the state department of transportation and the federal transit administration, and (d) addressing passenger and employee safety and security. The plans must, at a minimum, conform to the standards adopted by the state department of transportation as set forth in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. If required by the department, the county transportation authority shall revise its plans to incorporate the department's review comments within sixty days after their receipt, and resubmit its revised plans for review.

(2) Each county transportation authority shall implement and comply with its system safety program plan and system security and emergency preparedness plan. The county transportation authority shall perform internal safety and security audits to evaluate its compliance with the plans, and submit its audit schedule to the department of transportation ((~~no later than December 15th each year~~)) pursuant to the requirements in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. The county transportation authority shall prepare an annual report for its internal safety and security audits undertaken in the prior year and submit it to the department no later than February 15th. ((~~This~~)) The department shall establish the requirements for the annual report. The contents of the annual report must include, at a minimum, the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity, and the results of each audit in terms of the adequacy and effectiveness of the plans.

(3) Each county transportation authority shall notify the department of transportation ((~~within two hours of an occurrence of a reportable accident, unacceptable hazardous condition, or security breach~~)), pursuant to the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, any reportable incident, accident, security breach, hazard, or security vulnerability. The department may adopt rules further defining ((~~a reportable accident, unacceptable hazardous condition, or security breach~~)) any reportable incident, accident, security breach, hazard, or security vulnerability. The county transportation authority shall investigate ((~~all reportable accidents, unacceptable hazardous conditions, or security breaches~~)) any reportable incident, accident, security breach, hazard, or security vulnerability and provide a written investigation report to the department ((~~within forty-five calendar days after the reportable accident, unacceptable hazardous condition, or security breach~~)) as described in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(4) The system security and emergency preparedness plan required in subsection (1)(((~~(d)~~))) of this section is exempt from public disclosure under

chapter 42.56 RCW. However, the system safety program plan as described in this section is not subject to this exemption.

Sec. 6. RCW 36.57A.170 and 2007 c 422 s 5 are each amended to read as follows:

(1) Each public transportation benefit area that owns or operates a rail fixed guideway public transportation system as defined in RCW 81.104.015 shall submit a system safety program plan and a system security and emergency preparedness plan for that guideway to the state department of transportation by September 1, 1999, or at least one hundred eighty calendar days before beginning operations or instituting significant revisions to its plans. These plans must describe the public transportation benefit area's procedures for (a) reporting and investigating ((~~reportable accidents, unacceptable hazardous conditions, and security breaches~~)) any reportable incident, accident, or security breach and identifying and resolving hazards or security vulnerabilities discovered during planning, design, construction, testing, or operations, (b) developing and submitting corrective action plans and annual safety and security audit reports, (c) facilitating on-site safety and security reviews by the state department of transportation and the federal transit administration, and (d) addressing passenger and employee safety and security. The plans must, at a minimum, conform to the standards adopted by the state department of transportation as set forth in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. If required by the department, the public transportation benefit area shall revise its plans to incorporate the department's review comments within sixty days after their receipt, and resubmit its revised plans for review.

(2) Each public transportation benefit area shall implement and comply with its system safety program plan and system security and emergency preparedness plan. The public transportation benefit area shall perform internal safety and security audits to evaluate its compliance with the plans, and submit its audit schedule to the department of transportation ((~~no later than December 15th each year~~)) pursuant to the requirements in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. The public transportation benefit area shall prepare an annual report for its internal safety and security audits undertaken in the prior year and submit it to the department no later than February 15th. ((~~This~~)) The department shall establish the requirements for the annual report. The contents of the annual report must include, at a minimum, the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity, and the results of each audit in terms of the adequacy and effectiveness of the plans.

(3) Each public transportation benefit area shall notify the department of transportation ((~~within two hours of an occurrence of a reportable accident, unacceptable hazardous condition, or security breach~~)), pursuant to the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date

as may be provided by the department by rule, consistent with the purposes of this section, any reportable incident, accident, security breach, hazard, or security vulnerability. The department may adopt rules further defining ((~~a reportable accident, unacceptable hazardous condition, or security breach~~)) any reportable incident, accident, security breach, hazard, or security vulnerability. The public transportation benefit area shall investigate ((~~all reportable accidents, unacceptable hazardous conditions, or security breaches~~)) any reportable incident, accident, security breach, hazard, or security vulnerability and provide a written investigation report to the department ((~~within forty-five calendar days after the reportable accident, unacceptable hazardous condition, or security breach~~)) as described in the most current version of the Washington state rail safety oversight program standard manual as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(4) The system security and emergency preparedness plan required in subsection (1)(((~~d~~))) of this section is exempt from public disclosure under chapter 42.56 RCW. However, the system safety program plan as described in this section is not subject to this exemption.

Sec. 7. RCW 81.104.015 and 2009 c 280 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) "High capacity transportation corridor area" means a quasi-municipal corporation and independent taxing authority within the meaning of Article VII, section 1 of the state Constitution, and a taxing district within the meaning of Article VII, section 2 of the state Constitution, created by a transit agency governing body.

(2) "High capacity transportation system" means a system of public transportation services within an urbanized region operating principally on exclusive rights-of-way, and the supporting services and facilities necessary to implement such a system, including interim express services and high occupancy vehicle lanes, which taken as a whole, provides a substantially higher level of passenger capacity, speed, and service frequency than traditional public transportation systems operating principally in general purpose roadways.

(3) "Rail fixed guideway public transportation system" means a rail fixed guideway system, but does not include a system that is not public transportation, such as seasonal, tourist, or intraterminal service.

(4) "Rail fixed guideway system" means a light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or other fixed rail guideway component of a high capacity transportation system that is not regulated by the federal railroad administration, or its successor. "Rail fixed guideway system" does not mean elevators, moving sidewalks or stairs, and vehicles suspended from aerial cables, unless they are an integral component of a station served by a rail fixed guideway system.

(((~~4~~))) (5) "Regional transit system" means a high capacity transportation system under the jurisdiction of one or more transit agencies except where a regional transit authority created under chapter 81.112 RCW exists, in which case "regional transit system" means the high capacity transportation system under the jurisdiction of a regional transit authority.

((~~(5)~~))) (6) "Transit agency" means city-owned transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas.

Sec. 8. RCW 81.104.115 and 2007 c 422 s 7 are each amended to read as follows:

(1) The department of transportation is established as the state safety oversight agency. As such, the department is subject to the following conditions:

(a) The department must be financially and legally independent from any public transportation agency that the department is obliged to oversee;

(b) The department must not directly provide public transportation services in an area with a rail fixed guideway public transportation system that the department is obliged to oversee;

(c) The department must not employ any individual who is also responsible for administering a rail fixed guideway public transportation system that the department is obliged to oversee; and

(d) The department has investigative and enforcement authority with respect to the safety and security of all rail fixed guideway public transportation systems in Washington state. The department shall adopt rules with respect to its investigative and enforcement authority.

(2) The department ((~~may~~)) shall collect ((~~and~~)), audit, review, approve, oversee, and enforce the system safety program plan and the system security and emergency preparedness plan prepared by each owner or operator of a rail fixed guideway public transportation system operating in Washington state. In carrying out this function, the department ((~~may~~)) shall adopt rules specifying the elements and standard to be contained in a system safety program plan and a system security and emergency preparedness plan, and the content of any investigation report, corrective action plan, and accompanying implementation schedule resulting from ((~~a reportable accident, unacceptable hazardous condition, or security breach~~)) any reportable incident, accident, security breach, hazard, or security vulnerability. These rules ((~~may~~)) must include due dates for the department's timely receipt of and response to required documents.

((~~(2)~~))) (3) The department, in carrying out the duties in this section, shall compel the rail fixed guideway public transportation systems to comply with state and federal safety and security regulations for rail fixed guideway public transportation systems. The department may also impose financial penalties for noncompliance with state or federal regulations, or both, related to state safety and security oversight. Specific financial penalties, if imposed, must be determined by rule. When reportable safety or security deficiencies are identified and not addressed in a timely manner by rail fixed guideway public transportation system owners and operators, the department may require the suspension or modification of service or the suspended use or removal of equipment. The department may impose sanctions upon owners and operators of rail fixed guideway public transportation systems for failure to meet deadlines of submissions of required reports and audits.

(4) The system security and emergency preparedness plan as described in ((~~subsection (1)(d) of~~)) RCW 35.21.228(1), 35A.21.300(1), 36.01.210(1), 36.57.120(1), 36.57A.170(1), and 81.112.180(1) is exempt from public disclosure under chapter 42.56 RCW by the department when collected from the owners and operators of rail fixed ((~~railway~~)) guideway public transportation

systems. However, the system safety program plan as described in RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180 is not exempt from public disclosure.

((~~(3)~~)) (5) The department shall audit each system safety program plan and each system security and emergency preparedness plan at least once every three years. The department may contract with other persons or entities for the performance of duties required by this subsection. The department shall provide at least thirty days' advance notice to the owner or operator of a rail fixed guideway public transportation system before commencing the audit. ((~~The owner or operator of each rail fixed guideway system shall reimburse the reasonable expenses of the department in carrying out its responsibilities of this subsection within ninety days after receipt of an invoice. The department shall notify the owner or operator of the estimated expenses at least six months in advance of when the department audits the system.~~

~~(4)~~)) (6) In the event of ((~~a reportable accident, unacceptable hazardous condition, or security breach~~)) any reportable incident, accident, security breach, hazard, or security vulnerability, the department shall review the investigation report, corrective action plan, and accompanying implementation schedule, submitted by the owner or operator of the rail fixed guideway public transportation system to ((~~ensure that it meets the goal of preventing and mitigating~~)) safeguard against a recurrence of the ((~~reportable accident, unacceptable hazardous condition, or security breach~~)) incident, accident, security breach, hazard, or security vulnerability.

(a) The department may, at its option, perform a separate, independent investigation of ((~~a reportable accident, unacceptable hazardous condition, or security breach~~)) any reportable incident, accident, security breach, hazard, or security vulnerability. The department may contract with other persons or entities for the performance of duties required by this subsection.

(b) If the department does not concur with the investigation report, corrective action plan, and accompanying implementation schedule, submitted by the owner or operator, the department shall notify that owner or operator in writing within forty-five days of its receipt of the complete investigation report, corrective action plan, and accompanying implementation schedule.

((~~(5)~~)) (7) The secretary may adopt rules to implement this section and RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180, including rules establishing procedures and timelines for owners and operators of rail fixed guideway public transportation systems to comply with RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180 and the rules adopted under this section. If noncompliance by an owner or operator of a rail fixed guideway public transportation system results in the loss of federal funds to the state of Washington or a political subdivision of the state, the owner or operator is liable to the affected entity or entities for the amount of the lost funds.

(~~((6) The department may impose sanctions upon owners and operators of rail fixed guideway systems, but only for failure to meet reasonable deadlines for submission of required reports and audits. The department is expressly prohibited from imposing sanctions for any other purposes, including, but not limited to, differences in format or content of required reports and audits.~~

~~(7)~~)) (8) The department and its employees shall have no liability for any actions taken pursuant to this chapter arising from: The adoption of rules; the review of or concurrence in a system safety program plan and a system security and emergency preparedness plan; the separate, independent investigation of ((~~a reportable accident, unacceptable hazardous condition, or security breach~~)) any reportable incident, accident, security breach, hazard, or security vulnerability; and the review of or concurrence in a corrective action plan for ((~~a reportable accident, unacceptable hazardous condition, or security breach.~~

~~(8) The department shall set by rule an annual fee for owners and operators of rail fixed guideway systems to defray the department's direct costs associated only with the system safety program plans, system security and emergency preparedness plans, and incident investigations, as described in this section, and the fee shall not be a flat fee but shall be imposed on each owner and operator in proportion to the effort expended by the department in relation to individual plans. The department shall establish by rule the manner and timing of the collection of the fee~~)) any reportable incident, accident, security breach, hazard, or security vulnerability.

(9) At least once every year, the department shall report the status of the safety and security of each rail fixed guideway public transportation system to the governor, the federal transit administration, the board of directors or equivalent entity of the rail fixed guideway public transportation system, and the transportation committees of the legislature.

NEW SECTION. **Sec. 9.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate February 15, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 34

[Substitute Senate Bill 6363]

STATE HIGHWAY PROJECTS--RIVERS AND WATERWAYS--PUBLIC ACCESS

AN ACT Relating to the design and construction of certain transportation facilities adjacent to or across a river or waterway; adding a new section to chapter 47.01 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature recognizes that the department of transportation considers public access, including recreational trails and paths, when planning and designing new highway facilities consistent with chapters 47.30 and 90.58 RCW and RCW 79A.35.120. The legislature directs the department of transportation to explore the feasibility of providing access for water-related recreation.

NEW SECTION. **Sec. 2.** A new section is added to chapter 47.01 RCW to read as follows:

(1) During the design process for state highway projects that include the construction of a new bridge or reconstruction of an existing bridge across a

navigable river or waterway, excluding limited access highways and ferry terminals, the department must consider and report on the feasibility of providing a means of public access to the navigable river or waterway for public recreational purposes. The report must document whether the proposed project is in an area identified by state or local plans to be a priority for recreational access to waterways. If the proposed project is in an area identified by state or local plans to be a priority for recreational access to waterways, the department must coordinate with other relevant state agencies or local agencies to ensure consistency with the identified recreational plan.

(2) To the greatest extent practicable, when constructing a state highway project, including a major improvement project, the department must not adversely impact preexisting, lawful public access to a waterway.

(3) A consideration of feasibility must include a description of the suitability for public use, implications associated with potential access, and the availability of alternate public access within a reasonable distance, if present. A consideration of feasibility must not alter the purpose and need for the proposed transportation project or create any legal obligation to modify existing recreational access from state highway facilities. If public access to waterways is deemed feasible, any subsequent development must be conclusively deemed for recreational purposes notwithstanding such facilities' relationship to transportation facilities. Findings that improvements are not feasible do not require the alteration of any existing or historic access.

(4) This section must not be interpreted to: Delay decision making or approvals on proposed state transportation improvement projects, or limit the department's entitlement to recreational immunity consistent with chapter 4.24 RCW.

Passed by the Senate February 17, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 35

[Senate Bill 6614]

PERFORMANCE MEASUREMENT--STATE TRANSPORTATION SYSTEM

AN ACT Relating to measuring the performance of the state transportation system; amending RCW 47.01.071 and 47.64.360; reenacting and amending RCW 47.04.280; and adding a new section to chapter 47.04 RCW.

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

Sec. 1. RCW 47.01.071 and 2007 c 516 s 4 are each amended to read as follows:

The transportation commission shall have the following functions, powers, and duties:

(1) To propose policies to be adopted by the governor and the legislature designed to assure the development and maintenance of a comprehensive and balanced statewide transportation system which will meet the needs of the people of this state for safe and efficient transportation services. Wherever appropriate, the policies shall provide for the use of integrated, intermodal

transportation systems. The policies must be aligned with the goals established in RCW 47.04.280. To this end the commission shall:

(a) Develop transportation policies which are based on the policies, goals, and objectives expressed and inherent in existing state laws;

(b) Inventory the adopted policies, goals, and objectives of the local and area-wide governmental bodies of the state and define the role of the state, regional, and local governments in determining transportation policies, in transportation planning, and in implementing the state transportation plan;

(c) Establish a procedure for review and revision of the state transportation policy and for submission of proposed changes to the governor and the legislature; and

(d) Integrate the statewide transportation plan with the needs of the elderly and persons with disabilities, and coordinate federal and state programs directed at assisting local governments to answer such needs;

(2) To provide for the effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs;

(3) In conjunction with the provisions under RCW 47.01.075, to provide for public involvement in transportation designed to elicit the public's views both with respect to adequate transportation services and appropriate means of minimizing adverse social, economic, environmental, and energy impact of transportation programs;

(4) By December 2010, to prepare a comprehensive and balanced statewide transportation plan consistent with the state's growth management goals and based on the transportation policy goals provided under RCW 47.04.280 and applicable state and federal laws. The plan must reflect the priorities of government developed by the office of financial management and address regional needs, including multimodal transportation planning. The plan must, at a minimum: (a) Establish a vision for the development of the statewide transportation system; (b) identify significant statewide transportation policy issues; and (c) recommend statewide transportation policies and strategies to the legislature to fulfill the requirements of subsection (1) of this section. The plan must be the product of an ongoing process that involves representatives of significant transportation interests and the general public from across the state. Every four years, the plan shall be reviewed and revised, and submitted to the governor and the house of representatives and senate standing committees on transportation.

The plan shall take into account federal law and regulations relating to the planning, construction, and operation of transportation facilities;

(5) ((~~By December 2007, the office of financial management shall submit a baseline report on the progress toward attaining the policy goals under RCW 47.04.280 in the 2005-2007 fiscal biennium. By October 1, 2008, beginning with the development of the 2009-2011 biennial transportation budget, and by October 1st biennially thereafter, the office of financial management shall submit to the legislature and the governor a report on the progress toward the attainment by state transportation agencies of the state transportation policy goals and objectives prescribed by statute, appropriation, and governor directive. The report must, at a minimum, include the degree to which state transportation programs have progressed toward the attainment of the policy goals established~~

~~under RCW 47.04.280, as measured by the objectives and performance measures established by the office of financial management under RCW 47.04.280;~~

~~(6)~~)) To propose to the governor and the legislature prior to the convening of each regular session held in an odd-numbered year a recommended budget for the operations of the commission as required by RCW 47.01.061;

(((~~(7)~~))) (6) To adopt such rules as may be necessary to carry out reasonably and properly those functions expressly vested in the commission by statute;

(((~~(8)~~))) (7) To contract with the office of financial management or other appropriate state agencies for administrative support, accounting services, computer services, and other support services necessary to carry out its other statutory duties;

(((~~(9)~~))) (8) To conduct transportation-related studies and policy analysis to the extent directed by the legislature or governor in the biennial transportation budget act, or as otherwise provided in law, and subject to the availability of amounts appropriated for this specific purpose; and

(((~~(10)~~))) (9) To exercise such other specific powers and duties as may be vested in the transportation commission by this or any other provision of law.

NEW SECTION. **Sec. 2.** A new section is added to chapter 47.04 RCW to read as follows:

By October 1, 2016, and by October 1st biennially thereafter, the office of financial management shall review and comment prior to the department of transportation submitting to the legislature and the governor a report on the progress toward the attainment by state transportation agencies of the state transportation policy goals and objectives prescribed by statute, appropriation, and governor directive. The report must, at a minimum, include the degree to which state transportation programs have progressed toward the attainment of the policy goals established under RCW 47.04.280, as measured by the objectives and performance measures established under RCW 47.04.280.

Sec. 3. RCW 47.04.280 and 2015 3rd sp.s. c 16 s 1 and 2015 3rd sp.s. c 1 s 304 are each reenacted and 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, including congestion relief and improved freight mobility;

(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 ((~~department of transportation establish~~)) office of financial management, in consultation with the transportation commission, establish objectives and performance measures for the department 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 ((~~department of transportation~~)) office of financial management 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. 4. RCW 47.64.360 and 2015 3rd sp.s. c 1 s 306 are each amended to read as follows:

(1) The 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 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)~~)) section 2 of this act and RCW 47.04.280.

(2) By December 31, 2012, and each year thereafter, the department of transportation shall complete a performance report for the prior fiscal year. This report must be reviewed by the office of financial management, which must provide comment on the report, and the joint transportation committee, prior to submitting the report to the legislature and governor.

(3) Management shall lead implementation of the performance measures in RCW 47.64.355.

Passed by the Senate March 7, 2016.

Passed by the House March 3, 2016.

Approved by the Governor March 25, 2016.

Filed in Office of Secretary of State March 25, 2016.

CHAPTER 36

[Substitute House Bill 2017]

SPECIAL LICENSE PLATE--WASHINGTON FARMERS AND RANCHERS

AN ACT Relating to Washington farmers and ranchers special license plates; amending RCW 46.68.420; reenacting and amending RCW 46.18.200, 46.17.220, and 46.18.060; adding a new section to chapter 46.04 RCW; and providing an effective date.

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

Sec. 1. RCW 46.18.200 and 2014 c 77 s 1 and 2014 c 6 s 1 are each reenacted and amended to read as follows:

(1) Special license plate series reviewed and approved by the department:

(a) May be issued in lieu of standard issue or personalized license plates for vehicles required to display one and two license plates unless otherwise specified;

(b) Must be issued under terms and conditions established by the department;

(c) Must not be issued for vehicles registered under chapter 46.87 RCW; and

(d) Must display a symbol or artwork approved by the department.

(2) The department approves and shall issue the following special license plates:

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
4-H	Displays the "4-H" logo.
Armed forces collection	Recognizes the contribution of veterans, active duty military personnel, reservists, and members of the national guard, and includes six separate designs, each containing a symbol representing a different branch of the armed forces to include army, navy, air force, marine corps, coast guard, and national guard.
Breast cancer awareness	Displays a pink ribbon symbolizing breast cancer awareness.
Endangered wildlife	Displays a symbol or artwork symbolizing endangered wildlife in Washington state.
Gonzaga University alumni association	Recognizes the Gonzaga University alumni association.
Helping kids speak	Recognizes an organization that supports programs that provide no-cost speech pathology programs to children.
Keep kids safe	Recognizes efforts to prevent child abuse and neglect.

Law enforcement memorial	Honors law enforcement officers in Washington killed in the line of duty.
Music matters	Displays the "Music Matters" logo.
Professional firefighters and paramedics	Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.
Seattle Seahawks	Displays the "Seattle Seahawks" logo.
Seattle Sounders FC	Displays the "Seattle Sounders FC" logo.
Seattle University	Recognizes Seattle University.
Share the road	Recognizes an organization that promotes bicycle safety and awareness education.
Ski & ride Washington	Recognizes the Washington snowsports industry.
State flower	Recognizes the Washington state flower.
Volunteer firefighters	Recognizes volunteer firefighters.
Washington farmers and ranchers	Recognizes farmers and ranchers in Washington state.
Washington lighthouses	Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.
Washington state parks	Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.
Washington's national park fund	Builds awareness of Washington's national parks and supports priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.
Washington's wildlife collection	Recognizes Washington's wildlife.
We love our pets	Recognizes an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets to reduce pet overpopulation.

Wild on Washington	Symbolizes wildlife viewing in Washington state.

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

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

Sec. 2. RCW 46.17.220 and 2014 c 77 s 2 and 2014 c 6 s 2 are each reenacted and amended to read as follows:

(1) In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter 46.16A RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

PLATE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(a) 4-H	$ 40.00	$ 30.00	RCW 46.68.420
(b) Amateur radio license	$ 5.00	N/A	RCW 46.68.070
(c) Armed forces	$ 40.00	$ 30.00	RCW 46.68.425
(d) Baseball stadium	$ 40.00	$ 30.00	Subsection (2) of this section
(e) Breast cancer awareness	$ 40.00	$ 30.00	RCW 46.68.425
(f) Collector vehicle	$ 35.00	N/A	RCW 46.68.030
(g) Collegiate	$ 40.00	$ 30.00	RCW 46.68.430
(h) Endangered wildlife	$ 40.00	$ 30.00	RCW 46.68.425
(i) Gonzaga University alumni association	$ 40.00	$ 30.00	RCW 46.68.420
(j) Helping kids speak	$ 40.00	$ 30.00	RCW 46.68.420
(k) Horseless carriage	$ 35.00	N/A	RCW 46.68.030
(l) Keep kids safe	$ 45.00	$ 30.00	RCW 46.68.425
(m) Law enforcement memorial	$ 40.00	$ 30.00	RCW 46.68.420
(n) Military affiliate radio system	$ 5.00	N/A	RCW 46.68.070
(o) Music matters	$ 40.00	$ 30.00	RCW 46.68.420

(p) Professional firefighters and paramedics	$ 40.00	$ 30.00	RCW 46.68.420
(q) Ride share	$ 25.00	N/A	RCW 46.68.030
(r) Seattle Seahawks	$ 40.00	$ 30.00	RCW 46.68.420
(s) Seattle Sounders FC	$ 40.00	$ 30.00	RCW 46.68.420
(t) Seattle University	$ 40.00	$ 30.00	RCW 46.68.420
(u) Share the road	$ 40.00	$ 30.00	RCW 46.68.420
(v) Ski & ride Washington	$ 40.00	$ 30.00	RCW 46.68.420
(w) Square dancer	$ 40.00	N/A	RCW 46.68.070
(x) State flower	$ 40.00	$ 30.00	RCW 46.68.420
(y) Volunteer firefighters	$ 40.00	$ 30.00	RCW 46.68.420
(z) Washington farmers and ranchers	$ 40.00	$ 30.00	RCW 46.68.420
(aa) Washington lighthouses	$ 40.00	$ 30.00	RCW 46.68.420
(((~~aa~~))) (bb) Washington state parks	$ 40.00	$ 30.00	RCW 46.68.425
(((~~bb~~))) (cc) Washington's national parks	$ 40.00	$ 30.00	RCW 46.68.420
(((~~cc~~))) (dd) Washington's wildlife collection	$ 40.00	$ 30.00	RCW 46.68.425
(((~~dd~~))) (ee) We love our pets	$ 40.00	$ 30.00	RCW 46.68.420
(((~~ee~~))) (ff) Wild on Washington	$ 40.00	$ 30.00	RCW 46.68.425

(2) After deducting administration and collection expenses for the sale of baseball stadium license plates, the remaining proceeds must be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

Sec. 3. RCW 46.68.420 and 2014 c 6 s 3 are each amended to read as follows:

(1) The department shall:

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

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fee amounts for each special license plate to the following appropriate account as created in this section in the custody of the state treasurer:

ACCOUNT	CONDITIONS FOR USE OF FUNDS
4-H programs	Support Washington 4-H programs
Gonzaga University alumni association	Scholarship funds to needy and qualified students attending or planning to attend Gonzaga University
Helping kids speak	Provide free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development
Law enforcement memorial	Provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers
Lighthouse environmental programs	Support selected Washington state lighthouses that are accessible to the public and staffed by volunteers; provide environmental education programs; provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration; encourage and support interpretive programs by lighthouse docents
Music matters awareness	Promote music education in schools throughout Washington
Seattle Seahawks	Provide funds to InvestED to encourage secondary students who have economic needs to stay in school, return to school, or get involved within their learning community
Seattle Sounders FC	Provide funds to Washington state mentors and the association of Washington generals created in RCW 43.15.030 in the following manner: (a) Seventy percent and the remaining proceeds, if any, to Washington state mentors, to increase the number of mentors in the state by offering mentoring grants throughout Washington state that foster positive youth development and academic success, with up to twenty percent of these proceeds authorized for program administration costs; and (b) up to

Seattle Sounders FC	thirty percent, not to exceed forty-thousand dollars annually as adjusted for inflation by the office of financial management, to the association of Washington generals, to develop Washington state educational, veterans, international relations, and civics projects and to recognize the outstanding public service of individuals or groups in the state of Washington
Seattle University	Fund scholarships for students attending or planning to attend Seattle University
Share the road	Promote bicycle safety and awareness education in communities throughout Washington
Ski & ride Washington	Promote winter snowsports, such as skiing and snowboarding, and related programs, such as ski and ride safety programs, underprivileged youth ski and ride programs, and active, healthy lifestyle programs
State flower	Support Meerkerk Rhododendron Gardens and provide for grants to other qualified nonprofit organizations' efforts to preserve rhododendrons
Volunteer firefighters	Receive and disseminate funds for purposes on behalf of volunteer firefighters, their families, and others deemed in need
Washington farmers and ranchers	Provide funds to the Washington FFA Foundation for educational programs in Washington state
Washington state council of firefighters benevolent fund	Receive and disseminate funds for charitable purposes on behalf of members of the Washington state council of firefighters, their families, and others deemed in need
Washington's national park fund	Build awareness of Washington's national parks and support priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks

We love our pets	Support and enable the Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington state pets in order to reduce pet population

(3) Only the director or the director's designee may authorize expenditures from the accounts described in subsection (2) of this section. The accounts are subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) Funds in the special license plate accounts described in subsection (2) of this section must be disbursed subject to the conditions described in subsection (2) of this section and under contract between the department and qualified nonprofit organizations that provide the services described in subsection (2) of this section.

(5) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation operating in Washington that has received a determination of tax exempt status under 26 U.S.C. Sec. 501(c)(3). The qualified nonprofit organization must meet all the requirements under RCW 46.18.100(1).

Sec. 4. RCW 46.18.060 and 2014 c 77 s 5 and 2014 c 6 s 4 are each reenacted and amended to read as follows:

(1) The department must review and either approve or reject special license plate applications submitted by sponsoring organizations.

(2) Duties of the department include, but are not limited to, the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the joint transportation committee;

(b) Report annually to the joint transportation committee on the special license plate applications that were considered by the department;

(c) Issue approval and rejection notification letters to sponsoring organizations, the executive committee of the joint transportation committee, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application; and

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The department may submit a recommendation to discontinue a special plate series to the executive committee of the joint transportation committee.

(3) In order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until July 1, 2015. During this period of time, the department is prohibited from accepting, reviewing, processing, or approving any applications. Additionally, a special license plate may not be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the former special license plate review board before February 15, 2005.

(4) The limitations under subsection (3) of this section do not apply to the following special license plates:

(a) 4-H license plates created under RCW 46.18.200;

(b) Breast cancer awareness license plates created under RCW 46.18.200;
(c) Gold star license plates created under RCW 46.18.245;
(d) Music Matters license plates created under RCW 46.18.200;
(e) Seattle Seahawks license plates created under RCW 46.18.200;
(f) Seattle Sounders FC license plates created under RCW 46.18.200;
(g) Seattle University license plates created under RCW 46.18.200;
(h) State flower license plates created under RCW 46.18.200;
(i) Volunteer firefighter license plates created under RCW 46.18.200;
(j) Washington farmers and ranchers license plates created under RCW 46.18.200.

NEW SECTION. **Sec. 5.** A new section is added to chapter 46.04 RCW to read as follows:

"Washington farmers and ranchers license plates" means special license plates issued under RCW 46.18.200 that display a symbol or artwork recognizing Washington farmers and ranchers.

NEW SECTION. **Sec. 6.** This act takes effect January 1, 2017.

Passed by the House February 12, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor March 25, 2016.
Filed in Office of Secretary of State March 25, 2016.

CHAPTER 37

[Engrossed House Bill 1003]

NATURAL DISASTERS--SCHOOL INFRASTRUCTURE RECOVERY MODEL POLICY

AN ACT Relating to the development of a model policy on natural disaster school infrastructure recovery by the Washington state school directors' association; 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 state school directors' association shall develop a model policy addressing restoration of the safe learning environment disrupted by natural disaster impacts to school district infrastructures.

(2) In developing the model policy, the school directors' association may consult with various stakeholders, including the appropriate resources within the office of the superintendent of public instruction, the Washington emergency management division of the state military department, risk management entities that work with school districts, nonprofit experts in disaster recovery, educational service districts, and school districts affected by natural disasters.

(3) The model policy must:

(a) Take into consideration any guidance on infrastructure recovery developed by the federal emergency management agency and the Washington emergency management division;

(b) Include an infrastructure recovery checklist that a school impacted by a natural disaster can use to restore its essential physical and organizational structures, services, and facilities;

(c) List the offices or divisions of state agencies that school districts may contact for assistance with infrastructure recovery after a natural disaster;

(d) List examples of state and federal emergency funding sources for which school districts impacted by a natural disaster have qualified; and

(e) Include a model continuity of operations plan for use by school districts.

(4) By August 31, 2017, the school directors' association shall distribute the model policy to the school districts, with encouragement to adopt the model policy locally and review the safe school plan.

(5) This section expires September 1, 2017.

Passed by the House March 8, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 38

[Engrossed Second Substitute House Bill 1763]

MUSIC LICENSING AGENCIES

AN ACT Relating to regulating music licensing agencies; adding a new chapter to Title 19 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Copyright owner" means the owner of a copyright of a nondramatic musical work recognized and enforceable under the copyright laws of the United States pursuant to Title 17 of the United States Code (17 U.S.C. Sec. 101 et seq.). "Copyright owner" does not include the owner of a copyright in a motion picture or audiovisual work, or in part of a motion picture or audiovisual work.

(2) "Music licensing agency" means a performing rights society.

(3) "Performing rights society" means an association or corporation that licenses the public performance of non-dramatic musical works on behalf of copyright owners, such as the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc.

(4) "Proprietor" means the owner of a retail establishment, restaurant, inn, bar, tavern, sports or entertainment facility, or any other similar place of business or professional office located in this state in which the public may assemble and in which nondramatic musical works or similar copyrighted works may be performed, broadcast, or otherwise transmitted for the enjoyment of members of the public there assembled.

(5) "Royalty" or "royalties" means the fees payable to a copyright owner or performing rights society for the public performance of nondramatic musical works or other similar works.

NEW SECTION. **Sec. 2.** A performing rights society that licenses the performing rights to music may not license or attempt to license the use of or collect or attempt to collect any compensation on account of any sale, license, or other disposition regarding the performance rights of music unless the performing rights society:

(1) Registers and files annually with the department of licensing an electronic copy of each performing rights form agreement providing for the

payment of royalties made available from the performing rights society to any proprietor within the state; and

(2) Has a valid Washington unified business identifier number.

NEW SECTION. **Sec. 3.** A performing rights society must make available electronically to business proprietors the most current available list of members and affiliates represented by the performing rights society and the most current available list of the performed works that the performing rights society licenses.

NEW SECTION. **Sec. 4.** A person who willfully violates any of the provisions of this chapter may be liable for a civil penalty of not more than one thousand dollars per violation. Multiple violations on a single day may be considered separate violations. The attorney general, acting in the name of the state, may seek recovery of all such penalties in a civil action. The attorney general may issue civil investigative demands for the inspection of documents, interrogatory responses, and oral testimony in the enforcement of this section.

NEW SECTION. **Sec. 5.** (1) Before seeking payment or a contract for payment of royalties for the use of copyrighted works by that proprietor, a representative or agent for a performing rights society must:

Identify himself or herself to the proprietor or the proprietor's employees, disclose that he or she is acting on behalf of a performing rights society, and disclose the purpose for being on the premises.

(2) A representative or agent of a performing rights society must not:

(a) Use obscene, abusive, or profane language when communicating with the proprietor or his or her employees;

(b) Communicate by telephone or in-person with a proprietor other than at the proprietor's place of business during the hours when the proprietor's business is open to the public. However, such communications may occur at a location other than the proprietor's place of business or during hours when the proprietor's business is not open to the public if the proprietor or the proprietor's agents, employees, or representatives so authorizes;

(c) Engage in any coercive conduct, act, or practice that is substantially disruptive to a proprietor's business;

(d) Use or attempt to use any unfair or deceptive act or practice in negotiating with a proprietor; or

(e) Communicate with an unlicensed proprietor about licensing performances of musical works at the proprietor's establishment after receiving notification in writing from an attorney representing the proprietor that all further communications related to the licensing of the proprietor's establishment by the performing rights society should be addressed to the attorney. However, the performing rights society may resume communicating directly with the proprietor if the attorney fails to respond to communications from the performing rights society within sixty days, or the attorney becomes nonresponsive for a period of sixty days or more.

NEW SECTION. **Sec. 6.** (1) The department of revenue shall inform proprietors of their rights and responsibilities regarding the public performance of copyrighted music as part of the business licensing service.

(2) Performing rights societies are encouraged to conduct outreach campaigns to educate existing proprietors on their rights and responsibilities regarding the public performance of copyrighted music.

NEW SECTION. **Sec. 7.** (1) No performing rights society may enter into, or offer to enter into, a contract for the payment of royalties by a proprietor unless at least seventy-two hours prior to the execution of that contract it provides to the proprietor or the proprietor's employees, in writing, the following:

(a) A schedule of the rates and terms of royalties under the contract; and

(b) Notice that the proprietor is entitled to the information contained in section 3 of this act.

(2) A contract for the payment of royalties executed in this state must:

(a) Be in writing;

(b) Be signed by the parties; and

(c) Include, at least, the following information:

(i) The proprietor's name and business address;

(ii) The name and location of each place of business to which the contract applies;

(iii) The duration of the contract; and

(iv) The schedule of rates and terms of the royalties to be collected under the contract, including any sliding scale or schedule for any increase or decrease of those rates for the duration of that contract.

NEW SECTION. **Sec. 8.** Nothing in this act may be construed to prohibit a performing rights society from conducting investigations to determine the existence of music use by a proprietor's business or informing a proprietor of the proprietor's obligations under the copyright laws of the United States pursuant to Title 17 of the United States Code (17 U.S.C. Sec. 101 et seq.).

NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act constitute a new chapter in Title 19 RCW.

NEW SECTION. **Sec. 10.** This act takes effect January 1, 2017.

Passed by the House March 8, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 39

[Engrossed Substitute House Bill 2323]

INDIVIDUALS WITH DISABILITIES--SAVINGS AND INVESTMENTS--ACHIEVING A BETTER LIFE EXPERIENCE ACT

AN ACT Relating to the creation of the Washington achieving a better life experience program; amending RCW 43.33A.190; reenacting and amending RCW 43.79A.040; adding new sections to chapter 43.330 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 43.330 RCW to read as follows:

The definitions in this section apply throughout sections 2 through 6 of this act unless the context clearly indicates otherwise.

(1) "Eligible individual" means an individual eligible for the Washington achieving a better life experience program pursuant to section 529A of the federal internal revenue code of 1986, as amended.

(2) "Governing board" means the Washington achieving a better life experience program governing board in section 4 of this act.

(3) "Individual Washington achieving a better life experience program account" means an account established by or for an eligible individual and owned by the eligible individual pursuant to the Washington achieving a better life experience program. Any moneys placed in these accounts or achieving a better life experience program accounts established in other states shall not be counted as assets for purposes of state or local means tested program eligibility or levels of state means tested program eligibility.

(4) "Washington achieving a better life experience program" means a savings or investment program that establishes individual Washington achieving a better life experience program accounts pursuant to section 529A of the federal internal revenue code of 1986, as amended.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The Washington achieving a better life experience program account is created in the custody of the state treasurer. Expenditures from the account may be used only for the purposes of the Washington achieving a better life experience program established under this chapter, except for expenses of the state investment board and the state treasurer as specified in this section. The account must be a discrete nontreasury account retaining its interest earnings in accordance with RCW 43.79A.040.

(2) The account must be self-sustaining and consist of payments received from contributors to individual Washington achieving a better life experience program accounts. All payments contributed to the Washington achieving a better life experience program are held in trust and must be deposited in the account. With the exception of investment and operating costs associated with the investment of money paid under RCW 43.08.190, 43.33A.160, and 43.84.160, the account must be credited with all investment income earned by the account. Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. An appropriation is not required for expenditures.

(3) The assets of the account may be spent without appropriation for the purpose of making payments to individual Washington achieving a better life experience program account holders. Only the Washington achieving a better life experience governing board or the board's designee may authorize expenditures from the account.

(4) With regard to the assets of the account, the state acts in a fiduciary, not ownership, capacity. Therefore, the assets of the account are not considered state money, common cash, or revenue to the state.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The governing board may elect to have the state investment board invest the money in the Washington achieving a better life experience program account. If the governing board so elects, the state investment board created in

RCW 43.33A.020 has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the Washington achieving a better life experience program account. All investment and operating costs associated with the investment of money by the state investment board must be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money must be retained by the account.

(2)(a) After consultation with the governing board, the state investment board may elect to invest any self-directed accounts associated with the Washington achieving a better life experience program. The state investment board has full authority to invest all self-directed investment moneys in accordance with this section and RCW 43.84.150. In carrying out this authority the state investment board, after consultation with the governing board regarding any recommendations, shall provide a set of options for eligible individuals to choose from for self-directed investment. Any self-directed investment options provided must comply with section 529A of the federal internal revenue code of 1986, as amended.

(b) All investment and operating costs of the state investment board associated with making self-directed investments must be paid by eligible individuals and recovered under procedures agreed to by the governing board and the state investment board pursuant to the principles set forth in RCW 43.33A.160. All other expenses caused by self-directed investments must be paid by the eligible individual in accordance with rules established by the governing board. With the exception of these expenses, all earnings from self-directed investments shall accrue to the eligible individual's Washington achieving a better life experience program account.

(c)(i) The governing board shall keep or cause to be kept full and adequate accounts and records of each eligible individual Washington achieving a better life experience program account.

(ii) The governing board shall account for and report on the investment of self-directed assets or may enter into an agreement with the state investment board for such accounting and reporting under this chapter.

(iii) The governing board's duties related to eligible individual Washington achieving a better life experience program accounts include conducting the activities of trade instruction, settlement activities, and direction of cash movement and related wire transfers with the custodian bank and outside investment firms.

(iv) The governing board has sole responsibility for contracting with any recordkeepers for individual Washington achieving a better life experience program accounts and shall manage the performance of recordkeepers under those contracts.

(v) The state investment board has sole responsibility for contracting with outside investment firms to provide investment management for the individual Washington achieving a better life experience program accounts and shall manage the performance of investment managers under those contracts.

(vi) The department has sole responsibility for contracting with any recordkeepers for individual participant accounts and shall manage the performance of recordkeepers under those contracts.

(d) The state treasurer shall designate and define the terms of engagement for the custodial banks.

(3) All investments made by the state investment board must be made with the exercise of that degree of judgment and care pursuant to RCW 43.33A.140 and the investment policy established by the state investment board.

(4) As deemed appropriate by the state investment board, money in the account may be commingled for investment with other funds subject to investment by the state investment board.

(5) The authority to establish all policies relating to the account, other than the investment policies, resides with the governing board acting to implement, design, and manage the Washington achieving a better life experience savings program that allows eligible individuals to create and maintain savings accounts. The moneys in the account may be spent only for the purposes of the Washington achieving a better life experience program.

(6) The state investment board shall routinely consult and communicate with the governing board on the investment policy, earnings of the account, and related needs of the program.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.330 RCW to read as follows:

The Washington achieving a better life experience program is established and the governing board is authorized to design and administer the Washington achieving a better life experience program in the best interests of eligible individuals. To the extent funds are appropriated for this purpose, the director of the department shall provide staff and administrative support to the governing board. The department shall consult with the governing board regarding the staffing and administrative support needs before selecting any staff pursuant to this section. To the extent practicable, the Washington achieving a better life experience program must be colocated with the developmental disabilities endowment governing board established under this chapter.

(1) The governing board shall consist of seven members as follows:

(a) The state treasurer or his or her designee;

(b) The program director for the committee on advanced tuition payment established in RCW 28B.95.020;

(c) The director of the office of financial management or his or her designee; and

(d) Four members with demonstrated financial, legal, or disability program experience, appointed by the governor.

(2) The board shall select the chair of the board from among the seven board members identified in subsection (1) of this section.

(3) Members of the board who are appointed by the governor shall serve four-year terms and may be appointed for successive four-year terms at the discretion of the governor. The governor may stagger the terms of the appointed members.

(4) Members of the board must be compensated for their service under RCW 43.03.240 and must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The board shall meet periodically as specified by the chair, or a majority of the board, and may allow members to participate in meetings remotely.

(6) The board may appoint advisory committees to support the design or administration of the Washington achieving a better life experience program. Individuals serving on advisory committees must serve staggered terms and may

be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060, but may not be compensated for their service.

(7) The board may execute interagency agreements that authorize other state agencies such as the committee on advanced tuition payment established in RCW 28B.95.020 to perform administrative functions necessary to carry out the Washington achieving a better life experience program.

(8) Members of the governing board and the state investment board shall not be considered an insurer of the funds or assets of the Washington achieving a better life experience program account or the individual program accounts. Neither of these two boards are liable for the action or inaction of the other.

(9) Members of the governing board and the state investment board are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The department and the state investment board may purchase liability insurance for members.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The Washington achieving a better life experience program governing board is authorized to design, administer, manage, promote, and market the Washington achieving a better life experience program. The governing board is further authorized to contract with other organizations to administer, manage, promote, or market the Washington achieving a better life experience program. This program must allow for the creation of savings or investment accounts for eligible individuals with disabilities and the funds must be invested.

(2) The governing board may consult with the office of the state treasurer, the department of social and health services, and the state investment board in implementing the Washington achieving a better life experience program. The governing board is authorized to formulate and adopt any policies and rules necessary to implement and operate the Washington achieving a better life experience program consistent with this act. The governing board is further authorized to establish a reasonable fee structure for Washington achieving a better life experience program account holders.

(3) The governing board shall take any action required to keep the program in compliance with requirements of this chapter and as required to qualify as a "qualified ABLE program" as defined in section 529A of the federal internal revenue code of 1986, as amended, or any rules and regulations adopted by the secretary of the United States treasury pursuant to that act.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The governing board shall implement the Washington achieving a better life experience program by July 1, 2017. The governing board must submit a semiannual report to the appropriate committees of the legislature describing the progress toward program implementation. These reports must also include any recommendations regarding legislative changes that are necessary to implement the program and an estimate regarding the timeline for implementing the program.

(2) This section expires July 1, 2018.

Sec. 7. RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the Washington advanced college tuition payment program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account,

the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 8. RCW 43.33A.190 and 2000 c 247 s 701 are each amended to read as follows:

Pursuant to RCW 41.34.130 and section 3 of this act, the state investment board shall invest all self-directed investment moneys under teachers' retirement system plan 3, the school employees' retirement system plan 3, ((~~and~~)) the public employees' retirement system plan 3, and the Washington achieving a better life experience program with full power to establish investment policy, develop investment options, and manage self-directed investment funds.

Passed by the House February 10, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 40

[House Bill 2398]

NONPROFIT AGENCIES FOR THE BLIND--PUBLIC AGENCY PURCHASING REQUIREMENTS

AN ACT Relating to clarifying current requirements for public purchases of goods and services from nonprofit agencies for the blind; adding a new section to chapter 39.26 RCW; adding a new section to chapter 39.24 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 39.26 RCW to read as follows:

(1) All contracts entered into and purchases made under this chapter are subject to the requirements established under RCW 19.06.020.

(2) This section is not intended to create an entitlement to an individual or class of individuals.

NEW SECTION. **Sec. 2.** A new section is added to chapter 39.24 RCW to read as follows:

(1) All purchases made by a public agency are subject to the requirements established under RCW 19.06.020.

(2) For the purposes of this section, "public agency" means those agencies subject to RCW 19.06.020.

(3) This section is not intended to create an entitlement to an individual or class of individuals.

NEW SECTION. **Sec. 3.** Nothing in this act requires the department of enterprise services or any other public agency to breach an existing contract or dispose of stock that has been ordered or is in the possession of the department or other agency as of the effective date of this section.

Passed by the House February 16, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 41

[Substitute House Bill 2425]

MASSAGE PRACTITIONERS--RENAMING AS MASSAGE THERAPISTS

AN ACT Relating to changing the words "massage practitioner" and "animal massage practitioner" to "massage therapist" and "animal massage therapist"; amending RCW 18.108.025, 18.108.030, 18.108.040, 18.108.045, 18.108.070, 18.108.073, 18.108.085, 18.108.095, 18.108.115, 18.108.125, 18.108.131, 18.108.220, 18.108.230, 18.108.250, 18.120.020, 18.130.040, 18.240.005, 18.240.010, 18.240.020, 18.250.010, 35.21.692, 35A.82.025, 36.32.122, and 50.04.223; reenacting and amending RCW 18.108.010 and 18.74.010; creating a new section; and providing an effective date.

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

Sec. 1. RCW 18.108.010 and 2012 c 137 s 3 are each reenacted and amended to read as follows:

In this chapter, unless the context otherwise requires, the following meanings shall apply:

(1) "Animal massage ((~~practitioner~~)) therapist" means an individual with a license to practice massage therapy in this state with additional training in animal therapy.

(2) "Board" means the Washington state board of massage.

(3) "Certified reflexologist" means an individual who is certified under this chapter.

(4) "Health carrier" means the same as the definition in RCW 48.43.005.

(5) "Intraoral massage" means the manipulation or pressure of soft tissue inside the mouth or oral cavity for therapeutic purposes.

(6) "Massage" and "massage therapy" mean a health care service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes techniques such as tapping, compressions, friction, reflexology, Swedish gymnastics or movements, gliding, kneading, shaking, and fascial or connective tissue stretching, with or without the aids of superficial heat, cold, water, lubricants, or salts. Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body or spine or

mobilization of these articulations by the use of a thrusting force, nor does it include genital manipulation.

(7) "Massage business" means the operation of a business where massages are given.

(8) "Massage ((~~practitioner~~)) therapist" means an individual licensed under this chapter.

(9) "Reflexology" means a health care service that is limited to applying alternating pressure with thumb and finger techniques to reflexive areas of the lower one-third of the extremities, feet, hands, and outer ears based on reflex maps. Reflexology does not include the diagnosis of or treatment for specific diseases, or joint manipulations.

(10) "Reflexology business" means the operation of a business where reflexology services are provided.

(11) "Secretary" means the secretary of health or the secretary's designee.

Sec. 2. RCW 18.108.025 and 2012 c 137 s 4 are each amended to read as follows:

(1) In addition to any other authority provided by law, the board of massage may:

(a) Adopt rules in accordance with chapter 34.05 RCW necessary to implement massage ((~~practitioner~~)) therapist licensure under this chapter, subject to the approval of the secretary;

(b) Define, evaluate, approve, and designate those massage schools, massage programs, and massage apprenticeship programs including all current and proposed curriculum, faculty, and health, sanitation, and facility standards from which graduation will be accepted as proof of an applicant's eligibility to take the massage licensing examination;

(c) Review approved massage schools and programs periodically;

(d) Prepare, grade, administer, and supervise the grading and administration of, examinations for applicants for massage licensure;

(e) Establish and administer requirements for continuing education, which shall be a prerequisite to renewing a massage ((~~practitioner~~)) therapist license under this chapter; and

(f) Determine which states have educational and licensing requirements for massage ((~~practitioners~~)) therapists equivalent to those of this state.

(2) The board shall establish by rule the standards and procedures for approving courses of study in massage therapy and may contract with individuals or organizations having expertise in the profession or in education to assist in evaluating courses of study. The standards and procedures set shall apply equally to schools and training within the United States of America and those in foreign jurisdictions.

Sec. 3. RCW 18.108.030 and 2012 c 137 s 5 are each amended to read as follows:

(1)(a) No person may practice or represent himself or herself as a massage ((~~practitioner~~)) therapist without first applying for and receiving from the department a license to practice. However, this subsection does not prohibit a certified reflexologist from practicing reflexology.

(b) A person represents himself or herself as a massage ((~~practitioner~~)) therapist when the person adopts or uses any title or any description of services

that incorporates one or more of the following terms or designations: Massage, massage practitioner, massage therapist, massage therapy, therapeutic massage, massage technician, massage technology, massagist, masseur, masseuse, myotherapist or myotherapy, touch therapist, reflexologist except when used by a certified reflexologist, acupressurist, body therapy or body therapist, or any derivation of those terms that implies a massage technique or method.

(2)(a) No person may practice reflexology or represent himself or herself as a reflexologist by use of any title without first being certified as a reflexologist or licensed as a massage ((~~practitioner~~)) therapist by the department.

(b) A person represents himself or herself as a reflexologist when the person adopts or uses any title in any description of services that incorporates one or more of the following terms or designations: Reflexologist, reflexology, foot pressure therapy, foot reflex therapy, or any derivation of those terms that implies a reflexology technique or method. However, this subsection does not prohibit a licensed massage ((~~practitioner~~)) therapist from using any of these terms as a description of services.

(c) A person may not use the term "certified reflexologist" without first being certified by the department.

Sec. 4. RCW 18.108.040 and 2012 c 137 s 6 are each amended to read as follows:

(1)(a) It shall be unlawful to advertise the practice of massage using the term massage or any other term that implies a massage technique or method in any public or private publication or communication by a person not licensed by the secretary as a massage ((~~practitioner~~)) therapist. However, this subsection does not prohibit a certified reflexologist from using the term reflexology or derivations of the term, subject to subsection (2)(b) of this section.

(b) Any person who holds a license to practice as a massage ((~~practitioner~~)) therapist in this state may use the title "licensed massage ((~~practitioner~~)) therapist" and the abbreviation ((~~"L.M.P."~~)) "L.M.T.". No other persons may assume such title or use such abbreviation or any other word, letters, signs, or figures to indicate that the person using the title is a licensed massage ((~~practitioner~~)) therapist.

(c) A massage ((~~practitioner's~~)) therapist's name and license number must conspicuously appear on all of the massage ((~~practitioner's~~)) therapist's advertisements.

(2)(a) It is unlawful to advertise the practice of reflexology or use any other term that implies reflexology technique or method in any public or private publication or communication by a person not certified by the secretary as a reflexologist or licensed as a massage ((~~practitioner~~)) therapist.

(b) A person certified as a reflexologist may not adopt or use any title or description of services, including for purposes of advertising, that incorporates one or more of the following terms or designations: Massage, masseuse, massager, massagist, masseur, myotherapist or myotherapy, touch therapist, body therapy or therapist, or any derivation of those terms that implies a massage technique or therapy unless the person is also licensed under this chapter as a massage ((~~practitioner~~)) therapist.

(c) A reflexologist's name and certification number must conspicuously appear on all of the reflexologist's advertisements.

Sec. 5. RCW 18.108.045 and 2012 c 137 s 7 are each amended to read as follows:

A massage ((~~practitioner~~)) therapist licensed under this chapter or a reflexologist certified under this chapter must conspicuously display his or her credential in his or her principal place of business. If the licensed massage ((~~practitioner~~)) therapist or certified reflexologist does not have a principal place of business or conducts business in any other location, he or she must have a copy of his or her credential available for inspection while performing services within his or her authorized scope of practice.

Sec. 6. RCW 18.108.070 and 2012 c 137 s 10 are each amended to read as follows:

(1) The secretary shall issue a massage ((~~practitioner's~~)) therapist's license to an applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Effective June 1, 1988, successful completion of a course of study in an approved massage program or approved apprenticeship program;

(b) Successful completion of an examination administered or approved by the board; and

(c) Be eighteen years of age or older.

(2) Beginning July 1, 2013, the secretary shall issue a reflexologist certification to an applicant who completes an application form that identifies the name and address of the applicant and the certification request, and demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Successful completion of a course of study in reflexologist program approved by the secretary;

(b) Successful completion of an examination administered or approved by the secretary; and

(c) Be eighteen years of age or older.

(3) Applicants for a massage ((~~practitioner's~~)) therapist's license or for certification as a reflexologist shall be subject to the grounds for denial or issuance of a conditional credential under chapter 18.130 RCW.

(4) The secretary may require any information and documentation that reasonably relates to the need to determine whether the massage ((~~practitioner~~)) therapist or reflexologist applicant meets the criteria for licensure provided for in this chapter and chapter 18.130 RCW. The secretary shall establish by rule what constitutes adequate proof of meeting the criteria.

Sec. 7. RCW 18.108.073 and 2012 c 137 s 11 are each amended to read as follows:

(1) Applicants for the massage ((~~practitioner~~)) therapist license examination must demonstrate to the secretary's satisfaction that the following requirements have been met:

(a)(i) Effective June 1, 1988, successful completion of a course of study in an approved massage program; or

(ii) Effective June 1, 1988, successful completion of an apprenticeship program established by the board; and

(b) Be eighteen years of age or older.

(2) The board or its designee shall examine each massage ((~~practitioner~~)) therapist applicant in a written examination determined most effective on subjects appropriate to the massage scope of practice. The subjects may include anatomy, kinesiology, physiology, pathology, principles of human behavior, massage theory and practice, hydrotherapy, hygiene, first aid, Washington law pertaining to the practice of massage, and such other subjects as the board may deem useful to test applicant's fitness to practice massage therapy. Such examinations shall be limited in purpose to determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) All records of a massage ((~~practitioner~~)) therapist candidate's performance shall be preserved for a period of not less than one year after the board has made and published decisions thereupon. All examinations shall be conducted by the board under fair and impartial methods as determined by the secretary.

(4) A massage ((~~practitioner~~)) therapist applicant who fails to make the required grade in the first examination is entitled to take up to two additional examinations upon the payment of a fee for each subsequent examination determined by the secretary as provided in RCW 43.70.250. Upon failure of three examinations, the secretary may invalidate the original application and require such remedial education as is required by the board before admission to future examinations.

(5) The board may approve an examination prepared or administered, or both, by a private testing agency or association of licensing boards for use by a massage ((~~practitioner~~)) therapist applicant in meeting the licensing requirement.

Sec. 8. RCW 18.108.085 and 2012 c 137 s 14 are each amended to read as follows:

(1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW necessary to implement this chapter;

(b) Set all license, certification, examination, and renewal fees in accordance with RCW 43.70.250;

(c) Establish forms and procedures necessary to administer this chapter;

(d) Issue a massage ((~~practitioner's~~)) therapist's license to any applicant who has met the education, training, and examination requirements for licensure and deny licensure to applicants who do not meet the requirements of this chapter;

(e) Issue a reflexology certification to any applicant who has met the requirements for certification and deny certification to applicants who do not meet the requirements of this chapter; and

(f) Hire clerical, administrative, and investigative staff as necessary to implement this chapter.

(2) The Uniform Disciplinary Act, chapter 18.130 RCW, governs unlicensed and uncertified practice, the issuance and denial of licenses and certifications, and the disciplining of persons under this chapter. The secretary shall be the disciplining authority under this chapter.

(3) Any license or certification issued under this chapter to a person who is or has been convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances shall automatically be revoked by the secretary upon receipt of a certified copy of the court documents reflecting such conviction. No further hearing or procedure is required, and the secretary has no

discretion with regard to the revocation of the license or certification. The revocation shall be effective even though such conviction may be under appeal, or the time period for such appeal has not elapsed. However, upon presentation of a final appellate decision overturning such conviction, the license or certification shall be reinstated, unless grounds for disciplinary action have been found under chapter 18.130 RCW. No license or certification may be granted under this chapter to any person who has been convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances within the eight years immediately preceding the date of application. For purposes of this subsection, "convicted" does not include a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence, but does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(4) The secretary shall keep an official record of all proceedings under this chapter, a part of which record shall consist of a register of all applicants for licensure or certification under this chapter, with the result of each application.

Sec. 9. RCW 18.108.095 and 2012 c 137 s 13 are each amended to read as follows:

A massage ((~~practitioner~~)) therapist applicant holding a license in another state or foreign jurisdiction may be granted a Washington license without examination, if, in the opinion of the board, the other state's or foreign jurisdiction's examination and educational requirements are substantially equivalent to Washington's. However, the applicant must demonstrate to the satisfaction of the board a working knowledge of Washington law pertaining to the practice of massage. The applicant shall provide proof in a manner approved by the department that the examination and requirements are equivalent to Washington's.

Sec. 10. RCW 18.108.115 and 1987 c 443 s 13 are each amended to read as follows:

Any person holding a valid license to practice massage issued by authority of the state on July 26, 1987, shall continue to be licensed as a massage ((~~practitioner~~)) therapist under the provisions of this chapter.

Sec. 11. RCW 18.108.125 and 2008 c 25 s 2 are each amended to read as follows:

(1) The secretary must grant a massage ((~~practitioner~~)) therapist an inactive credential if the massage ((~~practitioner~~)) therapist submits a letter to the board stating his or her intent to obtain an inactive credential, and he or she:

(a) Holds an active Washington state massage ((~~practitioner's~~)) therapist's license;

(b) Is in good standing, as determined by the board; and

(c) Does not practice massage in the state of Washington.

(2) The secretary may reinstate the massage ((~~practitioner's~~)) therapist's license if the massage ((~~practitioner~~)) therapist:

(a) Pays the current active renewal fee and other fees for active licensure;

(b) Provides a written declaration that:

(i) No action has been taken by a state or federal jurisdiction or a hospital which would prevent or restrict the ((~~practitioner's~~)) therapist's practice of massage therapy;

(ii) He or she has not voluntarily given up any credential or privilege or been restricted in the practice of massage therapy to avoid other sanctions; and

(iii) He or she has satisfied continuing education and competency requirements for the two most recent years; and

(c) Meets other requirements for reinstatement, as may be determined by the board.

Sec. 12. RCW 18.108.131 and 2012 c 137 s 15 are each amended to read as follows:

(1) The secretary may certify an applicant as a reflexologist without examination if the applicant:

(a) Has practiced reflexology as a licensed massage ((~~practitioner~~)) therapist for at least five years prior to July 1, 2013, or provides evidence satisfactory to the secretary that he or she has, prior to July 1, 2013, successfully completed a course of study in a reflexology program approved by the secretary; and

(b) Applies for certification by one year after July 1, 2013.

(2) An applicant holding a reflexology credential in another state or a territory of the United States may be certified to practice in this state without examination if the secretary determines that the other jurisdiction's credentialing standards are substantially equivalent to the standards in this state.

Sec. 13. RCW 18.108.220 and 1994 c 228 s 1 are each amended to read as follows:

For the purposes of this chapter, licensed massage ((~~practitioners~~)) therapists shall be classified as "offices and clinics of health practitioners, not elsewhere classified" under section 8049 of the standard industrial classification manual published by the executive office of the president, office of management and budget.

Sec. 14. RCW 18.108.230 and 2001 c 297 s 3 are each amended to read as follows:

(1) A massage ((~~practitioner~~)) therapist licensed under this chapter may apply for an endorsement as a small or large animal massage ((~~practitioner~~)) therapist upon completion of one hundred hours of training in either large or small animal massage. Training must include animal massage techniques, kinesiology, anatomy, physiology, first aid care, and proper handling techniques.

(2) An applicant who applies for an endorsement within the first year following July 22, 2001, may submit documentation of a minimum of fifty hours of training with up to fifty hours of practical experience or continuing education, or a combination thereof, to fulfill the requirements of this section.

(3) Massage therapy of animals does not include diagnosis, prognosis, or all treatment of diseases, deformities, defects, wounds, or injuries of animals. For the purposes of this section, massage for therapeutic purposes may be performed solely for purposes of patient well-being.

(4) A person licensed and endorsed under this section may hold themselves out as an animal massage ((~~practitioner~~)) therapist.

(5) The board may adopt rules to implement this section upon consultation with the Washington state veterinary board of governors and licensed massage ((~~practitioners~~)) therapists with training in animal massage.

Sec. 15. RCW 18.108.250 and 2007 c 272 s 2 are each amended to read as follows:

(1) A massage ((~~practitioner~~)) therapist licensed under this chapter may apply for an endorsement to perform intraoral massage upon completion of training determined by the board and specified in rules. Training must include intraoral massage techniques, cranial anatomy, physiology, and kinesiology, hygienic practices, safety and sanitation, pathology, and contraindications.

(2) A massage ((~~practitioner~~)) therapist who has obtained an intraoral massage endorsement to his or her massage ((~~practitioner~~)) therapist license may practice intraoral massage.

Sec. 16. RCW 18.74.010 and 2014 c 116 s 3 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) "Authorized health care practitioner" means and includes licensed physicians, osteopathic physicians, chiropractors, naturopaths, podiatric physicians and surgeons, dentists, and advanced registered nurse practitioners: PROVIDED, HOWEVER, That nothing herein shall be construed as altering the scope of practice of such practitioners as defined in their respective licensure laws.

(2) "Board" means the board of physical therapy created by RCW 18.74.020.

(3) "Close supervision" means that the supervisor has personally diagnosed the condition to be treated and has personally authorized the procedures to be performed. The supervisor is continuously on-site and physically present in the operatory while the procedures are performed and capable of responding immediately in the event of an emergency.

(4) "Department" means the department of health.

(5) "Direct supervision" means the supervisor must (a) be continuously on-site and present in the department or facility where the person being supervised is performing services; (b) be immediately available to assist the person being supervised in the services being performed; and (c) maintain continued involvement in appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel or is required to be directly supervised under RCW 18.74.190.

(6) "Indirect supervision" means the supervisor is not on the premises, but has given either written or oral instructions for treatment of the patient and the patient has been examined by the physical therapist at such time as acceptable health care practice requires and consistent with the particular delegated health care task.

(7) "Physical therapist" means a person who meets all the requirements of this chapter and is licensed in this state to practice physical therapy.

(8)(a) "Physical therapist assistant" means a person who meets all the requirements of this chapter and is licensed as a physical therapist assistant and who performs physical therapy procedures and related tasks that have been

selected and delegated only by the supervising physical therapist. However, a physical therapist may not delegate sharp debridement to a physical therapist assistant.

(b) "Physical therapy aide" means a person who is involved in direct physical therapy patient care who does not meet the definition of a physical therapist or physical therapist assistant and receives ongoing on-the-job training.

(c) "Other assistive personnel" means other trained or educated health care personnel, not defined in (a) or (b) of this subsection, who perform specific designated tasks related to physical therapy under the supervision of a physical therapist, including but not limited to licensed massage ((~~practitioners~~)) therapists, athletic trainers, and exercise physiologists. At the direction of the supervising physical therapist, and if properly credentialed and not prohibited by any other law, other assistive personnel may be identified by the title specific to their training or education.

(9) "Physical therapy" means the care and services provided by or under the direction and supervision of a physical therapist licensed by the state. Except as provided in RCW 18.74.190, the use of Roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, and the use of spinal manipulation, or manipulative mobilization of the spine and its immediate articulations, are not included under the term "physical therapy" as used in this chapter.

(10) "Practice of physical therapy" is based on movement science and means:

(a) Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations in movement, and disability or other health and movement-related conditions in order to determine a diagnosis, prognosis, plan of therapeutic intervention, and to assess and document the ongoing effects of intervention;

(b) Alleviating impairments and functional limitations in movement by designing, implementing, and modifying therapeutic interventions that include therapeutic exercise; functional training related to balance, posture, and movement to facilitate self-care and reintegration into home, community, or work; manual therapy including soft tissue and joint mobilization and manipulation; therapeutic massage; assistive, adaptive, protective, and devices related to postural control and mobility except as restricted by (c) of this subsection; airway clearance techniques; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction;

(c) Training for, and the evaluation of, the function of a patient wearing an orthosis or prosthesis as defined in RCW 18.200.010. Physical therapists may provide those direct-formed and prefabricated upper limb, knee, and ankle-foot orthoses, but not fracture orthoses except those for hand, wrist, ankle, and foot fractures, and assistive technology devices specified in RCW 18.200.010 as exemptions from the defined scope of licensed orthotic and prosthetic services. It is the intent of the legislature that the unregulated devices specified in RCW 18.200.010 are in the public domain to the extent that they may be provided in common with individuals or other health providers, whether unregulated or regulated under this title ((~~18 RCW~~)), without regard to any scope of practice;

(d) Performing wound care services that are limited to sharp debridement, debridement with other agents, dry dressings, wet dressings, topical agents

including enzymes, hydrotherapy, electrical stimulation, ultrasound, and other similar treatments. Physical therapists may not delegate sharp debridement. A physical therapist may perform wound care services only by referral from or after consultation with an authorized health care practitioner;

(e) Reducing the risk of injury, impairment, functional limitation, and disability related to movement, including the promotion and maintenance of fitness, health, and quality of life in all age populations; and

(f) Engaging in administration, consultation, education, and research.

(11) "Secretary" means the secretary of health.

(12) "Sharp debridement" means the removal of devitalized tissue from a wound with scissors, scalpel, and tweezers without anesthesia. "Sharp debridement" does not mean surgical debridement. A physical therapist may perform sharp debridement, to include the use of a scalpel, only upon showing evidence of adequate education and training as established by rule. Until the rules are established, but no later than July 1, 2006, physical therapists licensed under this chapter who perform sharp debridement as of July 24, 2005, shall submit to the secretary an affidavit that includes evidence of adequate education and training in sharp debridement, including the use of a scalpel.

(13) "Spinal manipulation" includes spinal manipulation, spinal manipulative therapy, high velocity thrust maneuvers, and grade five mobilization of the spine and its immediate articulations.

(14) Words importing the masculine gender may be applied to females.

Sec. 17. RCW 18.120.020 and 2015 c 118 s 12 are each amended to read as follows:

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

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dental anesthesia assistants under chapter 18.350 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under

chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; massage ((~~practitioners~~)) therapists under chapter 18.108 RCW; East Asian medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; nursing assistants registered or certified under chapter 18.88A RCW; reflexologists certified under chapter 18.108 RCW; medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and licensed behavior analysts, licensed assistant behavior analysts, and certified behavior technicians under chapter 18.380 RCW.

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

Sec. 18. RCW 18.130.040 and 2015 c 118 s 13 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage ((~~practitioners~~)) therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) East Asian medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage ((~~practitioners~~)) therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

Sec. 19. RCW 18.240.005 and 2007 c 70 s 1 are each amended to read as follows:

The certification of animal massage ((~~practitioners~~)) therapists is in the interest of the public health, safety, and welfare. While veterinarians and certain massage ((~~practitioners~~)) therapists may perform animal massage techniques, the legislature finds that meeting all of the requirements of those professions can be unnecessarily cumbersome for those individuals who would like to limit their practice only to animal massage.

Sec. 20. RCW 18.240.010 and 2007 c 70 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) "Board" means the veterinary board of governors established in chapter 18.92 RCW.

(2) "Certified animal massage ((~~practitioner~~)) therapist" means an individual who provides external manipulation or pressure of soft tissues by use of the hands, body, or device designed and limited to providing massage. Animal massage may include techniques such as stroking, percussions, compressions, friction, Swedish gymnastics or movements, gliding, kneading, range of motion or stretching, and fascial or connective tissue stretching, with or without the aid of superficial heat, cold, water, lubricants, or salts. Animal massage does not include: Diagnosis, prognosis, or all treatment of diseases, deformities, defects, wounds, or injuries of animals; attempts to adjust or manipulate any articulations of the animal's body or spine or mobilization of these articulations by the use of a thrusting force; acupuncture involving the use of needles; or mechanical therapies that are restricted to the field of veterinary medicine. Animal massage may be performed solely for purposes of patient well-being.

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

(4) "Secretary" means the secretary of health or the secretary's designee.

Sec. 21. RCW 18.240.020 and 2007 c 70 s 3 are each amended to read as follows:

No person may practice as a certified animal massage ((~~practitioner~~)) therapist in this state without having a certification issued by the secretary unless he or she is exempt under RCW 18.240.040.

Sec. 22. RCW 18.250.010 and 2014 c 194 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) "Athlete" means a person who participates in exercise, recreation, sport, or games requiring physical strength, range-of-motion, flexibility, body awareness and control, speed, stamina, or agility, and the exercise, recreation, sports, or games are of a type conducted in association with an educational institution or professional, amateur, or recreational sports club or organization.

(2) "Athletic injury" means an injury or condition sustained by an athlete that affects the person's participation or performance in exercise, recreation, sport, or games and the injury or condition is within the professional preparation and education of an athletic trainer.

(3) "Athletic trainer" means a person who is licensed under this chapter. An athletic trainer can practice athletic training through the consultation, referral, or guidelines of a licensed health care provider working within their scope of practice.

(4)(a) "Athletic training" means the application of the following principles and methods as provided by a licensed athletic trainer:

(i) Risk management and prevention of athletic injuries through preactivity screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks;

(ii) Recognition, evaluation, and assessment of athletic injuries by obtaining a history of the athletic injury, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury;

(iii) Immediate care of athletic injuries, including emergency medical situations through the application of first-aid and emergency procedures and techniques for nonlife-threatening or life-threatening athletic injuries;

(iv) Treatment, rehabilitation, and reconditioning of athletic injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, in accordance with guidelines established with a licensed health care provider as provided in RCW 18.250.070;

(v) Treatment, rehabilitation, and reconditioning of work-related injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, under the direct supervision of and in accordance with a plan of care for an individual worker established by a provider authorized to provide physical medicine and rehabilitation services for injured workers; and

(vi) Referral of an athlete to an appropriately licensed health care provider if the athletic injury requires further definitive care or the injury or condition is outside an athletic trainer's scope of practice, in accordance with RCW 18.250.070.

(b) "Athletic training" does not include:

(i) The use of spinal adjustment or manipulative mobilization of the spine and its immediate articulations;

(ii) Orthotic or prosthetic services with the exception of evaluation, measurement, fitting, and adjustment of temporary, prefabricated or direct-formed orthosis as defined in chapter 18.200 RCW;

(iii) The practice of occupational therapy as defined in chapter 18.59 RCW;

(iv) The practice of East Asian medicine as defined in chapter 18.06 RCW;

(v) Any medical diagnosis; and

(vi) Prescribing legend drugs or controlled substances, or surgery.

(5) "Committee" means the athletic training advisory committee.

(6) "Department" means the department of health.

(7) "Licensed health care provider" means a physician, physician assistant, osteopathic physician, osteopathic physician assistant, advanced registered nurse practitioner, naturopath, physical therapist, chiropractor, dentist, massage

((~~practitioner~~)) therapist, acupuncturist, occupational therapist, or podiatric physician and surgeon.

(8) "Secretary" means the secretary of health or the secretary's designee.

Sec. 23. RCW 35.21.692 and 1991 c 182 s 1 are each amended to read as follows:

(1) A state licensed massage ((~~practitioner~~)) therapist seeking a city or town license to operate a massage business must provide verification of his or her state massage license as provided for in RCW 18.108.030.

(2) The city or town may charge a licensing or operating fee, but the fee charged a state licensed massage ((~~practitioner~~)) therapist shall not exceed the licensing or operating fee imposed on similar health care providers, such as physical therapists or occupational therapists, operating within the same city or town.

(3) A state licensed massage ((~~practitioner~~)) therapist is not subject to additional licensing requirements not currently imposed on similar health care providers, such as physical therapists or occupational therapists.

Sec. 24. RCW 35A.82.025 and 1991 c 182 s 2 are each amended to read as follows:

(1) A state licensed massage ((~~practitioner~~)) therapist seeking a city license to operate a massage business must provide verification of his or her state massage license as provided for in RCW 18.108.030.

(2) The city may charge a licensing or operating fee, but the fee charged a state licensed massage ((~~practitioner~~)) therapist shall not exceed the licensing or operating fee imposed on similar health care providers, such as physical therapists or occupational therapists, operating within the same city.

(3) A state licensed massage ((~~practitioner~~)) therapist is not subject to additional licensing requirements not currently imposed on similar health care providers, such as physical therapists or occupational therapists.

Sec. 25. RCW 36.32.122 and 1991 c 182 s 3 are each amended to read as follows:

(1) A state licensed massage ((~~practitioner~~)) therapist seeking a county license to operate a massage business must provide verification of his or her state massage license as provided for in RCW 18.108.030.

(2) The county may charge a licensing or operating fee, but the fee charged a state licensed massage ((~~practitioner~~)) therapist shall not exceed the licensing or operating fee imposed on similar health care providers, such as physical therapists or occupational therapists, operating within the same county.

(3) A state licensed massage ((~~practitioner~~)) therapist is not subject to additional licensing requirements not currently imposed on similar health care providers, such as physical therapists or occupational therapists.

Sec. 26. RCW 50.04.223 and 1994 c 3 s 2 are each amended to read as follows:

The term "employment" does not include services performed by a massage ((~~practitioner~~)) therapist licensed under chapter 18.108 RCW in a massage business if the use of the business facilities is contingent upon compensation to the owner of the business facilities and the person receives no compensation from the owner for the services performed.

This exemption does not include services performed by a massage ((~~practitioner~~)) therapist for an employer under chapter 50.44 RCW.

NEW SECTION. **Sec. 27.** Beginning July 1, 2017, the department of health shall issue all new licenses and renewals as they become due on the birthdate of the licensee using the term "massage therapist." Active licenses using the term "massage practitioner" remains valid until required to be renewed on the licensee's next birthdate after July 1, 2017.

NEW SECTION. **Sec. 28.** This act takes effect July 1, 2017.

Passed by the House February 17, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 42

[House Bill 2432]

SUBSTANCE ABUSE MONITORING PROGRAMS--OSTEOPATHY AND VETERINARY PROFESSIONS

AN ACT Relating to substance abuse monitoring for licensed veterinarians, osteopathic physicians and surgeons, and osteopathic physician assistants; amending RCW 18.57A.020 and 18.92.047; and adding a new section to chapter 18.57 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 18.57 RCW to read as follows:

(1) To implement an impaired osteopathic practitioner program as authorized by RCW 18.130.175, the board shall enter into a contract with a voluntary substance abuse monitoring program. The impaired osteopathic practitioner program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired osteopathic practitioners to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired osteopathic practitioners including those ordered by the board;

(f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired osteopathic practitioners; and

(g) Performing other related activities as determined by the board.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of fifty dollars on each license issuance or renewal to be collected by the department from every osteopathic practitioner licensed under this chapter. These moneys shall be placed in the health professions account to be used solely for the implementation of the impaired osteopathic practitioner program.

Sec. 2. RCW 18.57A.020 and 2015 c 252 s 11 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~~)) fifty dollars per year ((~~may~~)) shall be charged on each license renewal or issuance of a new license to be collected by the department of health and placed in the health professions account 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.

Sec. 3. RCW 18.92.047 and 1991 c 3 s 241 are each amended to read as follows:

(1) To implement an impaired veterinarian program as authorized by RCW 18.130.175, the veterinary board of governors shall enter into a contract with a voluntary substance abuse monitoring program. The impaired veterinarian program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired veterinarians to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired veterinarians including those ordered by the board;

(f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired veterinarians; and

(g) Performing other related activities as determined by the board.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of ((~~up to~~)) twenty-five dollars on each license issuance or renewal of a new license to be collected by the department of health from every veterinarian licensed under chapter 18.92 RCW. These moneys shall be placed in the health professions account to be used solely for the implementation of the impaired veterinarian program.

Passed by the House February 12, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 43

[Engrossed Substitute House Bill 2458]

PRESCRIPTION DRUG DONATION PROGRAM--PARTICIPATION REQUIREMENTS

AN ACT Relating to participation in the prescription drug donation program; amending RCW 69.70.010, 69.70.020, 69.70.040, 69.70.050, 69.70.060, and 69.70.070; creating a new section; and providing an effective date.

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

Sec. 1. RCW 69.70.010 and 2013 c 260 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) "Department" means the department of health.

(2) "Drug manufacturer" means a facility licensed by the ((~~board of~~)) pharmacy quality assurance commission under chapter 18.64 RCW that engages in the manufacture of drugs or devices.

(3) "Drug wholesaler" means a facility licensed by the ((~~board of~~)) pharmacy quality assurance commission under chapter 18.64 RCW that buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

(4) "Medical facility" means a hospital, pharmacy, nursing home, boarding home, adult family home, or medical clinic where the prescription drugs are under the control of a practitioner.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(6) "Pharmacist" means a person licensed by the ((~~board of~~)) pharmacy quality assurance commission under chapter 18.64 RCW to practice pharmacy.

(7) "Pharmacy" means a facility licensed by the ((~~board of~~)) pharmacy quality assurance commission under chapter 18.64 RCW in which the practice of pharmacy is conducted.

(8) "Practitioner" has the same meaning as in RCW 69.41.010.

(9) "Prescribing practitioner" means a person authorized to issue orders or prescriptions for legend drugs as listed in RCW 69.41.030.

(10) "Prescription drugs" has the same meaning as "legend drugs" as defined in RCW 69.41.010. The term includes cancer drugs and antirejection drugs. The term does not include controlled substances.

(11) "Supplies" means the supplies necessary to administer prescription drugs that are donated under the prescription drug redistribution program.

(12) "Time temperature indicator" means a device or smart label that shows the accumulated time-temperature history of a product by providing a nonreversible, accurate record of temperature exposure through the entire supply chain.

(13) "Uninsured" means a person who:

(a) Does not have private or public health insurance; or

(b) Has health insurance, but the health insurance does not provide coverage for a particular drug that has been prescribed to the person.

Sec. 2. RCW 69.70.020 and 2013 c 260 s 2 are each amended to read as follows:

(1) Any practitioner, pharmacist, medical facility, drug manufacturer, or drug wholesaler may donate prescription drugs and supplies to a pharmacy for redistribution without compensation or the expectation of compensation to individuals who meet the prioritization criteria established in RCW 69.70.040. Donations of prescription drugs and supplies may be made on the premises of a pharmacy that elects to participate in the provisions of this chapter. A pharmacy that receives prescription drugs or supplies may distribute the prescription drugs or supplies to another pharmacy, pharmacist, or prescribing practitioner for use pursuant to the program.

(2) The person to whom a prescription drug was prescribed, or the person's representative, may donate prescription drugs under subsection (1) of this section if, as determined by the professional judgment of a pharmacist, the prescription drugs were stored under required temperature conditions using the prescription drugs' time temperature indicator information and the person, or the person's representative, has completed and signed a donor form, adopted by the department, to release the prescription drug for distribution under this chapter

and certifying that the donated prescription drug has never been opened, used, adulterated, or misbranded.

Sec. 3. RCW 69.70.040 and 2013 c 260 s 4 are each amended to read as follows:

Pharmacies, pharmacists, and prescribing practitioners that elect to dispense donated prescription drugs and supplies under this chapter shall give priority to individuals who are uninsured ((~~and at or below two hundred percent of the federal poverty level~~)). If an uninsured ((~~and low-income~~)) individual has not been identified as in need of available prescription drugs and supplies, those prescription drugs and supplies may be dispensed to other individuals expressing need.

Sec. 4. RCW 69.70.050 and 2013 c 260 s 5 are each amended to read as follows:

(1) Prescription drugs or supplies may be accepted and dispensed under this chapter if all of the following conditions are met:

(a) The prescription drug is in:

(i) Its original sealed and tamper evident packaging; or

(ii) An opened package if it contains single unit doses that remain intact;

(b) The prescription drug bears an expiration date that is more than six months after the date the prescription drug was donated;

(c) The prescription drug or supplies are inspected before the prescription drug or supplies are dispensed by a pharmacist employed by or under contract with the pharmacy, and the pharmacist determines that the prescription drug or supplies are not adulterated or misbranded;

(d) The prescription drug or supplies are prescribed by a practitioner for use by an eligible individual and are dispensed by a pharmacist; and

(e) Any other safety precautions established by the department have been satisfied.

(2)(a) If a person who donates prescription drugs or supplies to a pharmacy under this chapter receives a notice that the donated prescription drugs or supplies have been recalled, the person shall notify the pharmacy of the recall.

(b) If a pharmacy that receives and distributes donated prescription drugs to another pharmacy, pharmacist, or prescribing practitioner under this chapter receives notice that the donated prescription drugs or supplies have been recalled, the pharmacy shall notify the other pharmacy, pharmacist, or prescribing practitioner of the recall.

(c) If a person collecting or distributing donated prescription drugs or supplies under this chapter receives a recall notice from the drug manufacturer or the federal food and drug administration for donated prescription drugs or supplies, the person shall immediately remove all recalled medications from stock and comply with the instructions in the recall notice.

(3) Prescription drugs and supplies donated under this chapter may not be resold.

(4) Prescription drugs and supplies dispensed under this chapter shall not be eligible for reimbursement of the prescription drug or any related dispensing fees by any public or private health care payer.

(5) A prescription drug that can only be dispensed to a patient registered with the manufacturer of that drug, in accordance with the requirements

established by the federal food and drug administration, may not be ((~~accepted or~~)) distributed under the program, unless the patient receiving the prescription drug is registered with the manufacturer at the time the drug is dispensed and the amount dispensed does not exceed the duration of the registration period.

Sec. 5. RCW 69.70.060 and 2013 c 260 s 6 are each amended to read as follows:

(((~~(1) The department must adopt rules establishing forms and procedures to: Reasonably verify eligibility and prioritize patients seeking to receive donated prescription drugs and supplies; and inform a person receiving prescription drugs donated under this program that the prescription drugs have been donated for the purposes of redistribution. A patient's eligibility may be determined by a form signed by the patient certifying that the patient is uninsured and at or below two hundred percent of the federal poverty level.~~

~~(2) The department may establish any other rules necessary to implement this chapter.~~)) The department shall develop a form for persons to use when releasing prescription drugs for distribution and certifying the condition of the drugs, as provided in RCW 69.70.020(2).

Sec. 6. RCW 69.70.070 and 2013 c 260 s 7 are each amended to read as follows:

(1) A drug manufacturer acting in good faith may not, in the absence of a finding of gross negligence, be subject to criminal prosecution or liability in tort or other civil action, for injury, death, or loss to person or property for matters relating to the donation, acceptance, or dispensing of ((~~a~~)) any drug manufactured by the drug manufacturer that is donated by any person under the program including, but not limited to((~~,~~)):

(a) Liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug; and

(b) Liability related to prescription drugs that can only be dispensed to a patient registered with the manufacturer of that drug, in accordance with the requirements established by the federal food and drug administration.

(2) Any person or entity, other than a drug manufacturer subject to subsection (1) of this section, acting in good faith in donating, accepting, or distributing prescription drugs under this chapter is immune from criminal prosecution, professional discipline, or civil liability of any kind for any injury, death, or loss to any person or property relating to such activities other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(3) The immunity provided under subsection (1) of this section does not absolve a drug manufacturer of a criminal or civil liability that would have existed but for the donation, nor does such donation increase the liability of the drug manufacturer in such an action.

NEW SECTION. **Sec. 7.** This act may be known and cited as the cancer can't charitable pharmacy act.

NEW SECTION. **Sec. 8.** This act takes effect January 1, 2017.

Passed by the House March 7, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 44

[Engrossed House Bill 2478]

PRESERVATION OF FORAGE PLANTS FOR POLLINATORS

AN ACT Relating to supporting agricultural production, including that of apiarists, through the preservation of forage for pollinators; amending RCW 17.10.145; adding a new section to chapter 43.220 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.** (1) The state noxious weed control board shall conduct a pilot project that evaluates the options, methods, and costs of purposefully replacing pollen-rich and nectar-rich noxious weeds, such as knapweeds and nonnative thistles, which are productive forage plants for honey bees, with either native or noninvasive, nonnative forage plants that can produce similar levels of pollen and nectar with a similar bloom succession to support populations of honey bees and other pollinators. The goal of the pilot project is to develop optional guidance and best practices for landowners and land managers faced with the removal of noxious weeds. The pilot project must be developed to maximize the dual public benefits of reducing noxious weeds in Washington and supporting agricultural production through the maintenance of access to seasonally balanced pollen-rich and nectar-rich plants for honey bees and other pollinators.

(2)(a) In implementing the pilot project, the state noxious weed control board must coordinate with willing landowners to provide goods or services, such as plant starts and seed packs, necessary to replace noxious weeds with either native or noninvasive, nonnative plants or to create, in conjunction with noxious weed control efforts, new seasonally balanced forage patches for honey bees and other pollinators.

(b) Priority in participation in the pilot project must be given to interested private landowners located in areas where the dual benefits of the pilot project can be maximized. However, public landowners or managers may also be considered for participation. No landowner may be required to participate in the pilot project either directly or as a condition of a permit or other governmental action.

(3) The implementation details of the pilot project required by this section are at the sole discretion of the state noxious weed control board, including the selection of pilot project partners and participants. However, pilot project partners should be located in both eastern and western Washington. The state noxious weed control board:

(a) Shall coordinate with the county noxious weed control boards in which pilot projects are located, unless the county does not have a local noxious weed control board; and

(b) May coordinate with the state conservation commission or individual conservation districts in the implementation of the pilot project if the state noxious weed control board finds that coordination would be beneficial.

(4) The state noxious weed control board must issue a report to the legislature, consistent with RCW 43.01.036, that outlines the successes and challenges of the pilot project, including the development of the tools in this subsection. This report must be presented by October 31, 2020, and include:

(a) A description of the following tools:

(i) A list of suitable pollen-rich forage plant alternatives to noxious weeds, taking into account traits such as nectar and pollen quality, bloom succession, growth requirements, and habitat type;

(ii) A list of seed and plant start suppliers that may be able to provide pollen-rich forage plant alternatives to noxious weeds. The list may only include suppliers who are willing to ensure the identity and purity of seed through appropriate testing performed or approved by the Washington state department of agriculture or by any other agency authorized under the laws of any state, territory, or possession that has standards and procedures approved by the United States secretary of agriculture to ensure the identity and purity of seed; and

(iii) A matrix, based on the pilot project, to provide guidelines to landowners and land managers when replacing noxious weeds or creating new pollen-rich forage patches;

(b) An assessment scale that may be used by landowners, land managers, and the apiary industry to rate the usefulness of the tools described in this subsection; and

(c) Any recommendations for extending the pilot project or using the lessons learned as part of Washington's overall noxious weed control strategy.

(5) This section expires June 30, 2021.

Sec. 2. RCW 17.10.145 and 1997 c 353 s 18 are each amended to read as follows:

(1) All state agencies shall control noxious weeds on lands they own, lease, or otherwise control through integrated pest management practices. Agencies shall develop plans in cooperation with county noxious weed control boards to control noxious weeds in accordance with standards in this chapter.

(2) All state agencies' lands must comply with this chapter, regardless of noxious weed control efforts on adjacent lands.

(3) While conducting planned projects to ensure compliance with this chapter, all agencies must give preference, when deemed appropriate by the acting agency for the project and targeted resource management goals, to replacing pollen-rich or nectar-rich noxious weeds with native forage plants that are beneficial for all pollinators, including honey bees.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.220 RCW to read as follows:

Any corps project that involves the removal of noxious weeds must, when deemed appropriate for the project goals by the project sponsor, include the planting of pollen-rich and nectar-rich native plants to provide forage for all pollinators, including honey bees.

Passed by the House March 7, 2016.

Passed by the Senate March 1, 2016.

Approved by the Governor March 29, 2016.

Filed in Office of Secretary of State March 30, 2016.

CHAPTER 45

[Substitute House Bill 2541]

LESS RESTRICTIVE INVOLUNTARY TREATMENT ORDERS--REQUIREMENTS

AN ACT Relating to less restrictive involuntary treatment orders; and amending RCW 71.05.230, 71.05.240, 71.05.290, 71.05.320, and 71.05.585.

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

Sec. 1. RCW 71.05.230 and 2015 c 250 s 6 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 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 results in a likelihood of serious harm, results in the person being gravely disabled, or results in the person being in need of assisted outpatient mental health treatment, and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The agency or facility providing intensive treatment or which proposes to supervise the less restrictive alternative is certified to provide such treatment by the department; and

(4) The professional staff of the agency or facility or the designated mental health professional has filed a petition with the court for a fourteen day involuntary detention or a ninety day less restrictive alternative. The petition must be signed either by:

(a) Two physicians;

(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, is gravely disabled, or is in need of assisted outpatient mental health treatment, and shall set forth ((~~a plan for the~~)) any recommendations for less restrictive

alternative treatment ((~~proposed by the facility in accordance with RCW 71.05.585~~)) services; and

(5) A copy of the petition has been served on the detained or committed person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The petition reflects that the person was informed of the loss of firearm rights if involuntarily committed; 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 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. 2. RCW 71.05.240 and 2015 c 250 s 7 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 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:

(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~~)) name the mental health service provider responsible for identifying the services the person will receive((~~,~~)) in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider. ((~~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. 3. RCW 71.05.290 and 2015 c 250 s 10 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 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~~)) any recommendations for less restrictive alternative treatment ((~~in accordance with RCW 71.05.585~~)) services.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.086(4), then the professional person in charge of the treatment facility or his or her professional designee or the designated 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. 4. RCW 71.05.320 and 2015 c 250 s 11 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~~)) name the mental health service provider responsible for identifying the services the person will receive((~~,~~)) in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider. ((~~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.

If less restrictive alternative treatment is sought, the petition shall set forth ((~~a proposed plan~~)) any recommendations for less restrictive alternative treatment services ((~~in accordance with RCW 71.05.585~~)).

(5) A new petition for involuntary treatment filed under subsection (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~~)) name the mental health service provider responsible for identifying the services the person will receive((~~,~~)) in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the mental health service provider. ((~~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 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.

(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. 5. RCW 71.05.585 and 2015 c 250 s 16 are each amended 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) The care coordinator assigned to a person ordered to less restrictive alternative treatment must submit an individualized plan for the person's treatment services to the court that entered the order. An initial plan must be submitted as soon as possible following the intake evaluation and a revised plan must be submitted upon any subsequent modification in which a type of service is removed from or added to the treatment plan.

(5) 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.

Passed by the House February 11, 2016.

Passed by the Senate March 3, 2016.

Approved by the Governor March 29, 2016.

Filed in Office of Secretary of State March 30, 2016.

CHAPTER 46

[House Bill 2565]

LOCAL SALES AND USE TAX CHANGES--FREQUENCY

AN ACT Relating to reducing the frequency of local sales and use tax changes; and amending RCW 82.14.055.

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

Sec. 1. RCW 82.14.055 and 2003 c 168 s 206 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (4) of this section, a local sales and use tax change ((~~shall~~)) may take effect (a) no sooner than seventy-five days after the department receives notice of the change and (b) only on the first day of January, April, or July((~~, or October~~)).

(2) In the case of a local sales and use tax that is a credit against the state sales tax or use tax, a local sales and use tax change ((~~shall~~)) may take effect (a) no sooner than thirty days after the department receives notice of the change and (b) only on the first day of a month.

(3)(a) A local sales and use tax rate increase imposed on services applies to the first billing period starting on or after the effective date of the increase.

(b) A local sales and use tax rate decrease imposed on services applies to bills rendered on or after the effective date of the decrease.

(c) For the purposes of this subsection (3), "services" means retail services such as installing and constructing and retail services such as telecommunications, but does not include services such as tattooing.

(4) For the purposes of this section, "local sales and use tax change" means enactment or revision of local sales and use taxes under this chapter or any other statute, including changes resulting from referendum or annexation.

Passed by the House February 16, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 47

[Substitute House Bill 2580]

BLOOD ESTABLISHMENTS--REGISTRATION

AN ACT Relating to establishing a public registry for the transparency of blood establishments; and adding a new chapter to Title 70 RCW.

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

NEW SECTION. **Sec. 1.** The legislature finds that maintaining public trust and confidence in the safety of the community blood supply is important to the health care system. Patients in Washington needing lifesaving transfusions rightly expect safe blood and blood donors in Washington rightly expect their contributions will be managed with diligent care and compliance with all regulatory standards and expectations so their donation will benefit patients in need. The United States food and drug administration establishes regulations,

good manufacturing practices, and guidance that defines the minimum standards for blood establishments and, in cases of repeated violations and noncompliance by licensed blood establishments, may impose measures that include fines, judicial consent decrees, and suspension or revocation of licensure. It is therefore the intent of the legislature that blood-collecting or distributing establishments be registered with the department of health to help ensure public transparency.

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

(1) "Blood-collecting or distributing establishment" or "establishment" means any organization that collects or distributes blood for allogeneic transfusion in Washington. This chapter does not apply to a hospital licensed under chapter 70.41 or 71.12 RCW unless the hospital collects blood directly from donors for the purpose of allogeneic transfusions. For the purposes of this chapter, "blood-collecting or distributing establishment" or "establishment" does not include organizations that collect source plasma for the production of plasma derivatives by fractionation.

(2) "Change in standing" means that a blood-collecting or distributing establishment is the subject of titled letters, fines, suspensions, or revocations of its United States food and drug administration license, or judicial consent decrees.

(3) "Department" means the Washington state department of health.

NEW SECTION. **Sec. 3.** (1) A blood-collecting or distributing establishment may not collect or distribute blood for transfusion in Washington, unless it is registered by the department.

(2) A blood-collecting or distributing establishment shall submit an application for registration to the department on a form prescribed by the department. The application must, at a minimum, contain the following information:

(a) The name, address, and telephone number of the blood-collecting or distributing establishment;

(b) A copy of the establishment's United States food and drug administration license, unless the applicant is a hospital that meets the criteria in section 2(1) of this act;

(c) A list of the establishment's clients in Washington;

(d) Any of the following issued upon, or active against, the establishment in the two years prior to the application:

(i) Titled letters, fines, or license suspensions or revocations issued by the United States food and drug administration; or

(ii) Judicial consent decrees; and

(e) Any other information required by the department.

(3) The department shall register a blood-collecting or distributing establishment if it holds a license issued by the United States food and drug administration, or if the applicant is a hospital that meets the criteria in section 2(1) of this act, and submits an application and fees as required by this section.

(4) The department shall deny or revoke the registration of an establishment upon a determination that it no longer holds a license issued by the United States food and drug administration.

(5) The department shall issue a summary suspension of the registration if the blood-collecting or distributing establishment no longer holds a license issued by the United States food and drug administration. The summary suspension remains in effect until proceedings under RCW 43.70.115 have been completed by the department. The issue in the proceedings is limited to whether the blood-collecting or distributing establishment is qualified to hold a registration under this section.

(6) A registration expires annually on the date specified on the registration. The department shall establish the administrative procedures and requirements for registration renewals, including a requirement that the establishment update the information provided under subsection (2) of this section both annually and within fourteen days of a change in standing of the establishment's United States food and drug administration license.

(7) An establishment applying for or renewing a registration under this section shall pay a fee in an amount set by the department in rule. In no case may the fee exceed the amount necessary to defray the costs of administering this chapter.

(8) This section does not apply in the case of individual patient medical need, as determined by a qualified provider.

NEW SECTION. **Sec. 4.** (1) The department shall create and maintain an online public registry of all registered blood-collecting or distributing establishments that supply blood products for transfusion in Washington.

(2) The department shall, within fourteen days of receipt, publish in the public registry the information received from each registered blood-collecting or distributing establishment under section 3 of this act, including changes in the standing of the establishment's United States food and drug administration license.

(3) The department shall notify all of a blood-collecting or distributing establishment's Washington clients within fourteen days of receiving notice under section 3 of this act that the establishment has experienced a change in standing in its United States food and drug administration license or no longer holds a license issued by the United States food and drug administration.

NEW SECTION. **Sec. 5.** The department may, in the manner provided by law and upon the advice of the attorney general, who shall represent the department in the proceedings, maintain an action in the name of the state for an injunction or other process against any blood-collecting or distributing establishment to restrain or prevent the operation of the establishment without a registration issued under this chapter.

NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 70 RCW.

Passed by the House March 7, 2016.

Passed by the Senate March 2, 2016.

Approved by the Governor March 29, 2016.

Filed in Office of Secretary of State March 30, 2016.

CHAPTER 48

[House Bill 2597]

SCHOOL DISTRICTS--SEXUAL ABUSE RESPONSE PLANS

AN ACT Relating to sexual abuse response plans; and amending RCW 28A.320.127.

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

Sec. 1. RCW 28A.320.127 and 2013 c 197 s 4 are each amended to read as follows:

(1) Beginning in the 2014-15 school year, each school district must adopt a plan for recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, ((~~and~~)) youth suicide, and sexual abuse. The school district must annually provide the plan to all district staff.

(2) At a minimum the plan must address:

(a) Identification of training opportunities in recognition, screening, and referral that may be available for staff;

(b) How to use the expertise of district staff who have been trained in recognition, screening, and referral;

(c) How staff should respond to suspicions, concerns, or warning signs of emotional or behavioral distress in students;

(d) Identification and development of partnerships with community organizations and agencies for referral of students to health, mental health, substance abuse, and social support services, including development of at least one memorandum of understanding between the district and such an entity in the community or region;

(e) Protocols and procedures for communication with parents and guardians, including the notification requirements under RCW 28A.320.160;

(f) How staff should respond to a crisis situation where a student is in imminent danger to himself or herself or others; ((~~and~~))

(g) How the district will provide support to students and staff after an incident of violence ((~~or~~)), youth suicide, or allegations of sexual abuse;

(h) How staff should respond when allegations of sexual contact or abuse are made against a staff member, a volunteer, or a parent, guardian, or family member of the student, including how staff should interact with parents, law enforcement, and child protective services; and

(i) How the district will provide to certificated and classified staff the training on the obligation to report physical abuse or sexual misconduct required under RCW 28A.400.317.

(3) The plan under this section may be a separate plan or a component of another district plan or policy, such as the harassment, intimidation, and bullying prevention policy under RCW 28A.300.2851 or the comprehensive safe school plan required under RCW 28A.320.125.

Passed by the House February 10, 2016.

Passed by the Senate March 1, 2016.

Approved by the Governor March 29, 2016.

Filed in Office of Secretary of State March 30, 2016.

CHAPTER 49

[House Bill 2694]

EMERGENCY CHILD PLACEMENT--INDIAN TRIBES--BACKGROUND CHECKS

AN ACT Relating to background checks in emergency placement situations requested by tribes; and amending RCW 26.44.240.

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

Sec. 1. RCW 26.44.240 and 2008 c 232 s 2 are each amended to read as follows:

(1) During an emergency situation when a child must be placed in out-of-home care due to the absence of appropriate parents or custodians, the department shall, or an authorized agency of a federally recognized tribe may, request a federal name-based criminal history record check of each adult residing in the home of the potential placement resource. Upon receipt of the results of the name-based check, the department shall, or an authorized agency of a federally recognized tribe may, provide a complete set of each adult resident's fingerprints to the Washington state patrol for submission to the federal bureau of investigation within ((~~fourteen~~)) fifteen calendar days from the date the name search was conducted. The child shall be removed from the home immediately if any adult resident fails to provide fingerprints and written permission to perform a federal criminal history record check when requested.

(2) When placement of a child in a home is denied as a result of a name-based criminal history record check of a resident, and the resident contests that denial, the resident shall, within fifteen calendar days, submit to the department or an authorized agency of a federally recognized tribe a complete set of the resident's fingerprints with written permission allowing the department or an authorized agency of a federally recognized tribe to forward the fingerprints to the Washington state patrol for submission to the federal bureau of investigation.

(3) The Washington state patrol and the federal bureau of investigation may each charge a reasonable fee for processing a fingerprint-based criminal history record check.

(4) As used in this section, "emergency placement" refers to those limited instances when the department or an authorized agency of a federally recognized tribe is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary caretaker.

Passed by the House March 7, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 50

[Substitute House Bill 2711]

SEXUAL ASSAULT NURSE EXAMINERS--AVAILABILITY STUDY

AN ACT Relating to increasing the availability of sexual assault nurse examiners; adding a new section to chapter 43.280 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 43.280 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of crime victims advocacy shall study the availability of sexual assault nurse examiners throughout the state. The study must include:

(a) An identification of areas of the state that have an adequate number of sexual assault nurse examiners;

(b) An identification of areas of the state that have an inadequate number of sexual assault nurse examiners;

(c) A list of available resources for facilities in need of sexual assault nurse examiners or sexual assault nurse examiner training; and

(d) Strategies for increasing the availability of sexual assault nurse examiners in underserved areas.

(2) When identifying strategies for increasing the availability of sexual assault nurse examiners in underserved areas, the office of crime victims advocacy shall, at a minimum, consider:

(a) Remote training or consultation via electronic means;

(b) Mobile teams of sexual assault nurse examiners;

(c) Costs and reimbursement rates for sexual assault nurse examiners; and

(d) Funding options.

(3) When performing the study under this section, the office of crime victims advocacy shall consult with experts on sexual assault victims' advocacy, experts on sexual assault investigation, and providers including, but not limited to:

(a) The department of health;

(b) The Washington coalition of sexual assault programs;

(c) The Washington association of sheriffs and police chiefs;

(d) The Washington association of prosecuting attorneys;

(e) The Washington state hospital association;

(f) The Harborview center for sexual assault and traumatic stress;

(g) The nursing care quality assurance commission; and

(h) The Washington state nurses association.

(4) The office of crime victims advocacy shall report its findings and recommendations to the governor and the appropriate committees of the legislature no later than December 1, 2016.

(5) This section expires July 31, 2017.

Passed by the House March 8, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 51

[House Bill 2771]

PUBLIC HOSPITAL DISTRICTS--CONTRACTS FOR MATERIAL AND WORK--COST

AN ACT Relating to public hospital district contracts for material and work; and amending RCW 70.44.140.

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

Sec. 1. RCW 70.44.140 and 2009 c 229 s 12 are each amended to read as follows:

(1) All materials purchased and work ordered, the estimated cost of which is in excess of seventy-five thousand dollars, shall be by contract. Before awarding any such contract, the commission shall publish a notice at least thirteen days before the last date upon which bids will be received, inviting sealed proposals for such work. The plans and specifications must at the time of the publication of such notice be on file at the office of the public hospital district, subject to public inspection: PROVIDED, HOWEVER, That the commission may at the same time, and as part of the same notice, invite tenders for the work or materials upon plans and specifications to be submitted by bidders. The notice shall state generally the work to be done, and shall call for proposals for doing the same, to be sealed and filed with the commission on or before the day and hour named therein. Each bid shall be accompanied by bid proposal security in the form of a certified check, cashier's check, postal money order, or surety bond made payable to the order of the commission, for a sum not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal security. At the time and place named, such bids shall be publicly opened and read, and the commission shall proceed to canvass the bids, and may let such contract to the lowest responsible bidder upon plans and specifications on file, or to the best bidder submitting his or her own plans and specifications((~~: PROVIDED, HOWEVER, That no contract shall be let in excess of the estimated cost of the materials or work, or~~)). If, in the opinion of the commission, all bids are unsatisfactory, they may reject all of them and readvertise, and in such case all bid proposal security shall be returned to the bidders. If the contract is let, then all bid proposal security shall be returned to the bidders, except that of the successful bidder, which is retained until a contract shall be entered into for the purchase of such materials for doing such work, and a bond to perform such work furnished, with sureties satisfactory to the commission, in an amount to be fixed by the commission, not less than twenty-five percent of contract price in any case, between the bidder and commission, in accordance with the bid. If such bidder fails to enter into the contract in accordance with the bid and furnish such bond within ten days from the date at which the bidder is notified that he or she is the successful bidder, the bid proposal security and the amount thereof shall be forfeited to the public hospital district. 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.

(2) As an alternative to the requirements of subsection (1) of this section, a public hospital district may let contracts using the small works roster process under RCW 39.04.155.

(3) Any purchases with an estimated cost of up to fifteen thousand dollars may be made using the process provided in RCW 39.04.190.

(4) The commission may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

Passed by the House February 17, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor March 29, 2016.

Filed in Office of Secretary of State March 30, 2016.

CHAPTER 52

[House Bill 2772]

PUBLIC HOSPITAL DISTRICTS--JOB ORDER CONTRACTS

AN ACT Relating to job order contracts by public hospital districts; and reenacting and amending RCW 39.10.420.

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

Sec. 1. RCW 39.10.420 and 2013 c 222 s 18 and 2013 c 186 s 1 are each reenacted and amended to read as follows:

(1) The following public bodies of the state of Washington are authorized to award job order contracts and use the job order contracting procedure:

(a) The department of enterprise services;

(b) The state universities, regional universities, and The Evergreen State College;

(c) Sound transit (central Puget Sound regional transit authority);

(d) Every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755;

(e) Every county with a population greater than four hundred fifty thousand;

(f) Every port district with total revenues greater than fifteen million dollars per year;

(g) Every public utility district with revenues from energy sales greater than twenty-three million dollars per year;

(h) Every school district;

(i) The state ferry system; ((~~and~~))

(j) The Washington state department of transportation, for the administration of building improvement, replacement, and renovation projects only; and

(k) Every public hospital district with total revenues greater than fifteen million dollars per year.

(2)(a) The department of enterprise services may issue job order contract work orders for Washington state parks department projects and public hospital districts.

(b) The department of enterprise services, the University of Washington, and Washington State University may issue job order contract work orders for the state regional universities and The Evergreen State College.

(3) Public bodies may use a job order contract for public works projects when a determination is made that the use of job order contracts will benefit the public by providing an effective means of reducing the total lead-time and cost for the construction of public works projects for repair and renovation required at public facilities through the use of unit price books and work orders by eliminating time-consuming, costly aspects of the traditional public works process, which require separate contracting actions for each small project.

Passed by the House February 11, 2016.

Passed by the Senate March 1, 2016.

Approved by the Governor March 29, 2016.

Filed in Office of Secretary of State March 30, 2016.

CHAPTER 53

[House Bill 2781]

MASSAGE THERAPIST EDUCATION--TRANSFER PROGRAMS

AN ACT Relating to the board of massage; amending RCW 18.108.025, 18.108.070, and 18.108.073; and adding a new section to chapter 18.108 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 18.108 RCW to read as follows:

In order to recognize prior education that is applicable to licensure as a massage therapist or massage practitioner while protecting the public, the board shall adopt rules to allow massage programs that are approved by the board to establish transfer programs that accept an individual's credits or clock hours from schools that have not been approved by the board. "Prior education" must be defined to include but not be limited to, credits or clock hours from schools, colleges, and universities that are:

(1) Accredited by a national or regional accreditation organization;

(2) Approved by a state authority with responsibility for oversight of vocational programs; or

(3) Approved by a state agency that regulates massage programs and is a member of the federation of state massage therapy boards.

Sec. 2. RCW 18.108.025 and 2012 c 137 s 4 are each amended to read as follows:

(1) In addition to any other authority provided by law, the board of massage may:

(a) Adopt rules in accordance with chapter 34.05 RCW necessary to implement massage practitioner licensure under this chapter, subject to the approval of the secretary;

(b) Define, evaluate, approve, and designate those massage schools, massage programs, transfer programs, and massage apprenticeship programs including all current and proposed curriculum, faculty, and health, sanitation, and facility standards from which graduation will be accepted as proof of an applicant's eligibility to take the massage licensing examination;

(c) Review approved massage schools and programs periodically;

(d) Prepare, grade, administer, and supervise the grading and administration of, examinations for applicants for massage licensure;

(e) Establish and administer requirements for continuing education, which shall be a prerequisite to renewing a massage practitioner license under this chapter; and

(f) Determine which states have educational and licensing requirements for massage practitioners equivalent to those of this state.

(2) The board shall establish by rule the standards and procedures for approving courses of study in massage therapy and may contract with individuals or organizations having expertise in the profession or in education to assist in evaluating courses of study. The standards and procedures set shall

apply equally to schools and training within the United States of America and those in foreign jurisdictions.

Sec. 3. RCW 18.108.070 and 2012 c 137 s 10 are each amended to read as follows:

(1) The secretary shall issue a massage practitioner's license to an applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Effective June 1, 1988, successful completion of a course of study in an approved massage program, transfer program, or approved apprenticeship program;

(b) Successful completion of an examination administered or approved by the board; and

(c) Be eighteen years of age or older.

(2) Beginning July 1, 2013, the secretary shall issue a reflexologist certification to an applicant who completes an application form that identifies the name and address of the applicant and the certification request, and demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Successful completion of a course of study in reflexologist program approved by the secretary;

(b) Successful completion of an examination administered or approved by the secretary; and

(c) Be eighteen years of age or older.

(3) Applicants for a massage practitioner's license or for certification as a reflexologist shall be subject to the grounds for denial or issuance of a conditional credential under chapter 18.130 RCW.

(4) The secretary may require any information and documentation that reasonably relates to the need to determine whether the massage practitioner or reflexologist applicant meets the criteria for licensure provided for in this chapter and chapter 18.130 RCW. The secretary shall establish by rule what constitutes adequate proof of meeting the criteria.

Sec. 4. RCW 18.108.073 and 2012 c 137 s 11 are each amended to read as follows:

(1) Applicants for the massage practitioner license examination must demonstrate to the secretary's satisfaction that the following requirements have been met:

(a)(i) Effective June 1, 1988, successful completion of a course of study in an approved massage program or transfer program; or

(ii) Effective June 1, 1988, successful completion of an apprenticeship program established by the board; and

(b) Be eighteen years of age or older.

(2) The board or its designee shall examine each massage practitioner applicant in a written examination determined most effective on subjects appropriate to the massage scope of practice. The subjects may include anatomy, kinesiology, physiology, pathology, principles of human behavior, massage theory and practice, hydrotherapy, hygiene, first aid, Washington law pertaining to the practice of massage, and such other subjects as the board may deem useful to test applicant's fitness to practice massage therapy. Such examinations shall be

limited in purpose to determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) All records of a massage practitioner candidate's performance shall be preserved for a period of not less than one year after the board has made and published decisions thereupon. All examinations shall be conducted by the board under fair and impartial methods as determined by the secretary.

(4) A massage practitioner applicant who fails to make the required grade in the first examination is entitled to take up to two additional examinations upon the payment of a fee for each subsequent examination determined by the secretary as provided in RCW 43.70.250. Upon failure of three examinations, the secretary may invalidate the original application and require such remedial education as is required by the board before admission to future examinations.

(5) The board may approve an examination prepared or administered, or both, by a private testing agency or association of licensing boards for use by a massage practitioner applicant in meeting the licensing requirement.

Passed by the House February 17, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 54

[Second Substitute House Bill 2877]

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM--BENEFIT DISTRIBUTION DATES

AN ACT Relating to the distribution of supplemental nutrition assistance program benefits; and adding a new section to chapter 74.04 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 74.04 RCW to read as follows:

Beginning February 1, 2017, the department must expand the dates it distributes supplemental nutrition assistance program benefits from the first through the tenth of every month, to the first through the twentieth of every month.

Passed by the House February 17, 2016.
Passed by the Senate March 9, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 55

[Engrossed House Bill 2959]

LOCAL BUSINESSES--TAXATION AND LICENSURE SIMPLIFICATION--TASK FORCE

AN ACT Relating to local business tax and licensing simplification; 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 over forty cities currently impose local business and occupation taxes and that approximately two

hundred twelve cities require a business license. The legislature further finds that, unlike sales and use taxes and property taxes, the state has had little involvement in the administration of local business taxes. The legislature further finds that the business community has expressed concerns for decades with respect to local tax compliance and licensing obligations in numerous cities, which often tax and license similar transactions very differently. This lack of local uniformity, in conjunction with any lack of centralized administration, has created confusion and an undue burden on Washington businesses, especially smaller businesses that lack the financial wherewithal to seek sophisticated tax and licensing assistance.

(2) The legislature further finds that over the past fifteen years, the state and cities have made the following substantial inroads with respect to bringing uniformity to local business and occupation tax provisions and streamlining the collection of both local taxes and business licenses:

(a) In 2003, the legislature enacted Engrossed House Bill No. 2030 that provided for a more uniform system of municipal business and occupation taxes. It required the cities, working through the association of Washington cities, to form a committee to adopt a model ordinance for municipal business and occupation taxes. Engrossed House Bill No. 2030, through the model ordinance, establishes uniform local definitions, tax classifications, and apportionment methodology.

(b) In 1977, the legislature created a master license service to streamline business licensing and renewal. The program transferred to the department of revenue on July 1, 2011. The master license service was renamed to the business licensing service to better reflect the program's purpose: The business licensing service is the clearinghouse for business licensing, offering more than two hundred endorsements from ten state agency partners, and issuing local business licenses on behalf of approximately seventy cities, with more cities joining every year. Agency programs and municipalities retain full regulatory control over their registration and compliance requirements.

(c) In 2010, the governor signed Executive Order No. 10-05 - improving the way state government serves small business. The order outlined priorities to make it easier to do business in Washington state. In the executive order, the department was specifically charged with exploring, evaluating, and recommending tax simplification solutions as a way to assist small businesses, draw businesses to the state, and keep Washington competitive. The order called for a business process with findings and recommendations due to the governor by June 30, 2011. Based on extensive feedback from small businesses, there was consensus that the top priority to simplify their tax burden is to have a single way to file taxes across the state. To meet this need, the department of revenue recommended centralizing administration of state and local business and occupation tax reporting, as is done with sales tax reporting today. In addition, the department recommended continued work to address feedback on administrative processes and ongoing efforts to look at integration of state systems, working towards a goal of a single business portal for small businesses to use to interact with the state. As part of the feedback provided to the department of revenue, local governments pointed out the following benefits of centralized administration, if it was revenue neutral and retained local flexibility regarding local tax rates, exemptions, deductions, and credits:

(i) Reduce cities' administrative costs;

(ii) Allow cities that cannot afford administration to have the option of enacting a local business and occupation tax;

(iii) Increase statewide economic data;

(iv) Reduce cities' employee workloads;

(v) Potentially increase enforcement and broaden compliance;

(vi) Eliminate redundant processes; and

(vii) Provide an opportunity for state and local government to look at tax structure, reporting, etc., holistically.

(d) The cities of Seattle, Tacoma, Bellevue, and Everett have been working together since 2010 to simplify the process of local business licensing and business and occupation tax filing. In 2014, these cities signed an interlocal agreement to establish a "one-stop" system for tax payment and business license application filing to make it easier and more efficient for businesses to apply for local business licenses and file local taxes, while the cities retain local control over local licensing and tax collection functions and policies. This joint effort to create an internet web application gateway where tax collection and business licensing functions can be collectively administered, and where businesses operating in multiple cities can use a one-stop system for tax payment or local business license application filing, began operations in 2016 and is known as FileLocal.

(3) The legislature finds that despite the significant improvements to local business tax and licensing administration over the past fifteen years legislative action is still required. The legislature directs the state, cities, towns, and identified business associations to partner in developing options for centralized and simplified administration of local business and occupation taxes and business licensing, and in particular to evaluate the following:

(a) Options to coordinate administration of local business and occupation taxes;

(b) Options for centralized administration of local business and occupation taxes for those cities and towns that desire to participate in a state-provided alternative;

(c) Options for all cities and towns to partner with the state business licensing service; and

(d) Implementing data sharing and establishing a seamless state and local user interface for those cities and towns participating in FileLocal.

(4) By January 1, 2017, the task force established in subsection (5) of this section must prepare a report to the legislature with the following:

(a) Additional or alternative options to improve the administration of local business tax and licensing that are not described in subsection (3) of this section;

(b) An examination of the differences in apportionment and nexus between state and local business and occupation taxes, and how these differences affect taxpayers and cities; and

(c) Recommendations that address the issues described in subsection (3) of this section.

(5)(a) A task force for local business tax and licensing simplification is established. The task force must consist of the following nine members:

(i) Two representatives of the association of Washington business;

(ii) One representative of the national federation of independent business;

(iii) One representative of the association of Washington cities;

(iv) One representative from a Washington city or town that imposes a local business and occupation tax and has a population greater than one hundred thousand persons using the most recent official population estimate determined under RCW 43.62.030 prior to the effective date of this section;

(v) One representative from a Washington city or town that imposes a business and occupation tax and has a population of less than one hundred thousand persons using the most recent official population estimate determined under RCW 43.62.030 prior to the effective date of this section;

(vi) One representative from FileLocal who is not otherwise included on the task force under (a)(iv) or (v) of this subsection (5);

(vii) One representative from the Washington retail association; and

(viii) One representative from the department of revenue.

(b) The task force may seek input or collaborate with any other parties it deems necessary. The department must serve as the task force chair and must staff the task force.

(c) Beginning in the first month following the effective date of this section, the task force must meet no less than once per month until it reports to the legislature as provided under subsection (4) of this section.

(d) The task force should focus on options that provide the greatest benefit to taxpayers. From these options, the task force must produce the report described in subsection (4) of this section. The report must be adopted and approved by a majority of the members of the task force, and the report must include a minority report if the task force does not reach consensus. If a member or a group to be represented in the task force does not participate in the task force or the task force's voting, the task force must adopt and approve the report described in subsection (4) of this section by a majority of those representatives participating.

(e) The task force terminates February 1, 2017, unless legislation is enacted to extend such termination date.

Passed by the House March 8, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 56

[Senate Bill 5689]

DIABETES--PLANNING--REPORTS

AN ACT Relating to containing the scope and costs of the diabetes epidemic in Washington; adding a new chapter to Title 70 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** The health care authority, department of social and health services, and department of health shall collaborate to identify goals and benchmarks while also developing individual agency plans to reduce the incidence of diabetes in Washington, improve diabetes care, and control complications associated with diabetes.

NEW SECTION. **Sec. 2.** The health care authority, department of social and health services, and department of health shall each submit a report to the governor and the legislature by December 31, 2019, and every second year thereafter, on the following:

(1) The financial impact and reach diabetes of all types is having on programs administered by each agency and individuals enrolled in those programs. Items included in this assessment must include the number of lives with diabetes impacted or covered by programs administered by the agency, the number of lives with diabetes and family members impacted by prevention and diabetes control programs implemented by the agency, the financial toll or impact diabetes and its complications places on these programs, and the financial toll or impact diabetes and its complications places on these programs in comparison to other chronic diseases and conditions;

(2) An assessment of the benefits of implemented programs and activities aimed at controlling diabetes and preventing the disease. This assessment must also document the amount and source for any funding directed to the agency for programs and activities aimed at reaching those with diabetes;

(3) A description of the level of coordination existing between the agencies on activities, programmatic activities, and messaging on managing, treating, or preventing all forms of diabetes and its complications;

(4) A development or revision of detailed action plans for battling diabetes with a range of actionable items for consideration by the legislature. The plans must identify proposed action steps to reduce the impact of diabetes, prediabetes, and related diabetes complications. The plan must also identify expected outcomes of the action steps proposed in the following biennium while also establishing benchmarks for controlling and preventing relevant forms of diabetes; and

(5) An estimate of costs and resources required to implement the plan identified in subsection (4) of this section.

NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2016, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 8, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 57

[Senate Bill 5879]

CHILDREN WITH DISABILITIES--EARLY INTERVENTION SERVICES--ADMINISTRATION

AN ACT Relating to early intervention services for infants and toddlers with disabilities and their families; amending RCW 70.195.010, 70.195.020, 28A.155.065, and 43.215.020; adding new sections to chapter 43.215 RCW; creating new sections; recodifying RCW 70.195.005, 70.195.010, 70.195.020, and 70.195.030; and providing an expiration date.

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

Sec. 1. RCW 70.195.010 and 1998 c 245 s 125 are each amended to read as follows:

For the purposes of implementing this chapter, the governor shall appoint a state ((~~birth-to-six~~)) birth-to-three interagency coordinating council and ensure that state agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families shall coordinate and collaborate in the planning and delivery of such services.

No state or local agency currently providing early intervention services to infants and toddlers with disabilities may use funds appropriated for early intervention services for infants and toddlers with disabilities to supplant funds from other sources.

All state and local agencies shall ensure that the implementation of this chapter will not cause any interruption in existing early intervention services for infants and toddlers with disabilities.

Nothing in this chapter shall be construed to permit the restriction or reduction of eligibility under Title V of the Social Security Act, P.L. 90-248, relating to maternal and child health or Title XIX of the Social Security Act, P.L. 89-97, relating to medicaid for infants and toddlers with disabilities.

Sec. 2. RCW 70.195.020 and 1992 c 198 s 17 are each amended to read as follows:

The state ((~~birth-to-six~~)) birth-to-three interagency coordinating council shall identify and work with county early childhood interagency coordinating councils to coordinate and enhance existing early intervention services and assist each community to meet the needs of infants and toddlers with disabilities and their families.

Sec. 3. RCW 28A.155.065 and 2007 c 115 s 7 are each amended to read as follows:

(1) ((~~By September 1, 2009,~~)) Each school district shall provide or contract for early intervention services to all eligible children with disabilities from birth to three years of age. Eligibility shall be determined according to Part C of the federal individuals with disabilities education ((~~improvement~~)) act or other applicable federal and state laws, and as specified in the Washington Administrative Code adopted by the state lead agency, which is the department of early learning. School districts shall provide or contract, or both, for early intervention services in partnership with local birth-to-three lead agencies and birth-to-three providers. Services provided under this section shall not supplant services or funding currently provided in the state for early intervention services to eligible children with disabilities from birth to three years of age. The state-designated birth-to-three lead agency shall be payor of last resort for birth-to-three early intervention services provided under this section.

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

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

by school districts, coordination and transition services, and administrative costs.

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

NEW SECTION. **Sec. 4.** (1) The department of early learning shall provide a full accounting of the early support for infants and toddlers expenditures from the 2013-14 and 2014-15 school years in the plan required under section 6 of this act. The accounting shall include the reported expenditures from the office of the superintendent of public instruction required under section 3 of this act.

(2) This section expires August 1, 2017.

Sec. 5. RCW 43.215.020 and 2013 c 323 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

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

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

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

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

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

(f) To serve as the state lead agency for Part C of the federal individuals with disabilities education act (IDEA) and to develop and adopt rules that establish minimum requirements for the services offered through Part C programs, including allowable allocations and expenditures for transition into Part B of the federal individuals with disabilities education act (IDEA);

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

(h) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

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

(j) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs;

(k) To develop and adopt rules for administration of the program of early learning established in RCW ((~~43.215.141~~)) 43.215.455;

(l) To develop a comprehensive birth-to-three plan to provide education and support through a continuum of options including, but not limited to, services such as: Home visiting; quality incentives for infant and toddler child care subsidies; quality improvements for family home and center-based child care programs serving infants and toddlers; professional development; early literacy programs; and informal supports for family, friend, and neighbor caregivers; and

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

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

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

(5) Subject to the availability of amounts appropriated for this specific purpose, the legislature shall fund the expansion in the Washington state preschool program pursuant to RCW ((~~43.215.142~~)) 43.215.456 in fiscal year 2014.

(6) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children, and that recognizes and honors cultural and linguistic diversity. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

NEW SECTION. **Sec. 6.** By December 15, 2016, the department of early learning shall develop and submit a plan to the appropriate committees of the legislature on comprehensive and coordinated early intervention services for all eligible children with disabilities in accordance with Part C of the federal individuals with disabilities education act. The proposed plan shall include, but is not limited to, the following:

(1) A full accounting of all the expenditures related to early support for infants and toddlers from both the department of early learning and the office of the superintendent of public instruction as required in RCW 28A.155.065 and section 4 of this act;

(2) The identification and proposal for coordination of all available public financial resources within the state from federal, state, and local sources;

(3) A design for an integrated early learning intervention system for all eligible infants and toddlers who have been diagnosed with a disability or developmental delays and their families;

(4) The development of procedures that ensure services are provided to all eligible infants and toddlers and their families in a consistent and timely manner; and

(5) A proposal for the integration of early support for infants and toddlers services with other critical services available for children birth to age three and their families.

NEW SECTION. **Sec. 7.** RCW 70.195.005, 70.195.010, 70.195.020, and 70.195.030 are each recodified as sections in chapter 43.215 RCW.

Passed by the Senate March 7, 2016.
Passed by the House March 1, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 58

[Senate Bill 6171]

OPEN PUBLIC MEETINGS ACT--VIOLATIONS--PENALTY

AN ACT Relating to civil penalties for knowing attendance by a member of a governing body at a meeting held in violation of the open public meetings act; amending RCW 42.30.120; and prescribing penalties.

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

Sec. 1. RCW 42.30.120 and 2012 c 117 s 126 are each amended to read as follows:

(1) Each member of the governing body who attends a meeting of such governing body where action is taken in violation of any provision of this chapter applicable to him or her, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of ((~~one~~)) five hundred dollars for the first violation.

(2) Each member of the governing body who attends a meeting of a governing body where action is taken in violation of any provision of this chapter applicable to him or her, with knowledge of the fact that the meeting is in violation thereof, and who was previously assessed a penalty under subsection (1) of this section in a final court judgment, shall be subject to personal liability in the form of a civil penalty in the amount of one thousand dollars for any subsequent violation.

(3) The civil penalty shall be assessed by a judge of the superior court and an action to enforce this penalty may be brought by any person. A violation of this chapter does not constitute a crime and assessment of the civil penalty by a judge shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

((~~(2)~~)) (4) Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded all costs, including reasonable attorneys' fees, incurred in connection with such legal action.

Pursuant to RCW 4.84.185, any public agency ((~~who~~)) which prevails in any action in the courts for a violation of this chapter may be awarded reasonable expenses and attorney fees upon final judgment and written findings by the trial judge that the action was frivolous and advanced without reasonable cause.

Passed by the Senate February 16, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 59

[Substitute Senate Bill 6273]

DIGITAL CITIZENSHIP--INSTRUCTION IN PUBLIC SCHOOLS

AN ACT Relating to safe technology use and digital citizenship in public schools; adding a new section to chapter 28A.650 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature recognizes that as technology becomes more prevalent, students must learn how to safely, ethically, responsibly, and effectively use technology. The legislature intends to provide a process in which students, parents or guardians, teachers, teacher-librarians, other school employees, administrators, and community representatives will engage in an ongoing discussion on safe technology use, internet use, digital citizenship, and media literacy as part of implementing the state's basic education goal outlined in RCW 28A.150.210(3) and essential academic learning requirements for technology outlined in RCW 28A.655.075.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.650 RCW to read as follows:

(1) For the purposes of this section, "digital citizenship" includes the norms of appropriate, responsible, and healthy behavior related to current technology use, including digital and media literacy, ethics, etiquette, and security. The term also includes the ability to access, analyze, evaluate, develop, produce, and interpret media, as well as internet safety and cyberbullying prevention and response.

(2)(a) By December 1, 2016, the office of the superintendent of public instruction shall develop best practices and recommendations for instruction in digital citizenship, internet safety, and media literacy, and report to the appropriate committees of the legislature, in accordance with RCW 43.01.036, on strategies to implement the best practices and recommendations statewide. The best practices and recommendations must be developed in consultation with an advisory committee as specified in (b) of this subsection. Best practices and recommendations must include instruction that provides guidance about thoughtful, safe, and strategic uses of online and other media resources, and education on how to apply critical thinking skills when consuming and producing information.

(b) The office of the superintendent of public instruction must convene and consult with an advisory committee when developing best practices and recommendations for instruction in digital citizenship, internet safety, and media literacy. The advisory committee must include: Representatives from the

Washington state school directors' association; experts in digital citizenship, internet safety, and media literacy; teacher-librarians as defined in RCW 28A.320.240; and other stakeholders, including parent associations, educators, and administrators. Recommendations produced by the committee may include, but are not limited to:

(i) Revisions to the state learning standards for educational technology, required under RCW 28A.655.075;

(ii) Revisions to the model policy and procedures on electronic resources and internet safety developed by the Washington state school directors' association;

(iii) School district processes necessary to develop customized district policies and procedures on electronic resources and internet safety;

(iv) Best practices, resources, and models for instruction in digital citizenship, internet safety, and media literacy; and

(v) Strategies that will support school districts in local implementation of the best practices and recommendations developed by the office of the superintendent of public instruction under (a) of this subsection.

(3) Beginning in the 2017-18 school year, a school district shall annually review its policy and procedures on electronic resources and internet safety. In reviewing and amending the policy and procedures, a school district must:

(a) Involve a representation of students, parents or guardians, teachers, teacher-librarians, other school employees, administrators, and community representatives with experience or expertise in digital citizenship, media literacy, and internet safety issues;

(b) Consider customizing the model policy and procedures on electronic resources and internet safety developed by the Washington state school directors' association;

(c) Consider existing school district resources; and

(d) Consider best practices, resources, and models for instruction in digital citizenship, internet safety, and media literacy, including methods to involve parents.

Passed by the Senate March 8, 2016.
Passed by the House March 1, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 60

[Substitute Senate Bill 5728]

HIV INFECTION SCREENING--OPT-OUT

AN ACT Relating to permitting opt-out screening for HIV infection; adding a new section to chapter 70.24 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds that the scientific community's understanding of the human immunodeficiency virus has changed significantly since the virus was first identified. With that change has come increased awareness of the value of incorporating HIV testing into routine health screenings. The legislature finds that the United States preventive services task

force recommends that clinicians screen for HIV infection in adolescents and adults age fifteen to sixty-five years and for all pregnant women. The legislature also finds that since 2006, the United States centers for disease control has recommended one-time screening of adolescent and adult patients to identify persons who are already HIV-positive, making HIV screening a regular part of the medical care provided by a primary care provider and on the same voluntary basis as other diagnostic and screening tests. In that same recommendation, the centers for disease control formally adopted its current recommendations for an opt-out model of HIV screening for all individuals ages thirteen to sixty-four and for all pregnant women. The legislature finds further that it is appropriate to update the state's HIV screening policy by adopting these recommendations.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70.24 RCW to read as follows:

(1) Clinicians shall screen for HIV infection consistent with the United States preventive services task force recommendations for all patients age fifteen through sixty-five years and for all pregnant women. Screening is voluntary and may be undertaken only after the patient or the patient's authorized representative has been told that HIV screening is planned and that HIV screening will be performed unless the patient declines.

(2) If a health care provider notifies a patient that an HIV screening will be performed unless the patient declines, and the patient or patient's authorized representative declines the HIV screening, the health care provider may not use the fact that the person declined an HIV screening as a basis for denying services or treatment, other than an HIV screening, to the person.

Passed by the Senate March 7, 2016.
Passed by the House March 2, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 61

[Substitute Senate Bill 6283]

SECURITIES ACT OF WASHINGTON--TECHNICAL REGULATORY CHANGES--CLARIFICATION

AN ACT Relating to clarifying, and making department of financial institutions technical regulatory changes to, the securities act of Washington; amending RCW 21.20.040, 21.20.110, 21.20.120, 21.20.140, 21.20.270, 21.20.275, 21.20.280, 21.20.300, 21.20.325, 21.20.340, 21.20.360, 21.20.390, 21.20.710, 21.20.727, and 21.20.883; and reenacting RCW 21.20.400.

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

Sec. 1. RCW 21.20.040 and 2002 c 65 s 3 are each amended to read as follows:

(1) It is unlawful for any person to transact business in this state as a broker-dealer or salesperson, unless: (a) The person is registered under this chapter; (b) the person is exempted from registration as a broker-dealer or salesperson to sell or resell condominium units sold in conjunction with an investment contract as may be provided by rule or order of the director as to persons who are licensed pursuant to the provisions of chapter 18.85 RCW; (c) the person is a salesperson who satisfies the requirements of section 15(((~~(h)(2)~~))) (i)(3) of the Securities

Exchange Act of 1934 and effects in this state no transactions other than those described by section 15(((h)(3))) (i)(4) of the Securities Exchange Act of 1934; (d) the person is a salesperson effecting transactions in open-end investment company securities sold at net asset value without any sales charges; or (e) the person participates only in the sale or offering for sale of variable contracts which fund corporate plans meeting the requirements for qualification under section 401 or 403 of the United States Internal Revenue Code as set forth in RCW 48.18A.060.

(2) It is unlawful for any broker-dealer or issuer to employ a salesperson unless the salesperson is registered or exempted from registration.

(3) It is unlawful for any person to transact business in this state as an investment adviser or investment adviser representative unless: (a) The person is so registered or exempt from registration under this chapter; (b) the person has no place of business in this state and (i) the person's only clients in this state are investment advisers registered under this chapter, federal covered advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, employee benefit plans with assets of not less than one million dollars, or governmental agencies or instrumentalities, whether acting for themselves or as trustees with investment control, or (ii) during the preceding twelve-month period the person has had fewer than six clients who are residents of this state other than those specified in (b)(i) of this subsection; (c) the person is an investment adviser to an investment company registered under the Investment Company Act of 1940; (d) the person is a federal covered adviser and the person has complied with requirements of RCW 21.20.050; or (e) the person is excepted from the definition of investment adviser under section 202(a)(11) of the Investment Advisers Act of 1940.

(4) It is unlawful for any person, other than a federal covered adviser, to hold himself or herself out as, or otherwise represent that he or she is a "financial planner", "investment counselor", or other similar term, as may be specified in rules adopted by the director, unless the person is registered as an investment adviser or investment adviser representative, is exempt from registration as an investment adviser or investment adviser representative under RCW 21.20.040(((1))), or is excluded from the definition of investment adviser under RCW 21.20.005(((6))).

(5)(a) It is unlawful for any person registered or required to be registered as an investment adviser under this chapter to employ, supervise, or associate with an investment adviser representative unless such investment adviser representative is registered as an investment adviser representative under this chapter.

(b) It is unlawful for any federal covered adviser or any person required to be registered as an investment adviser under section 203 of the Investment Advisers Act of 1940 to employ, supervise, or associate with an investment adviser representative having a place of business located in this state, unless such investment adviser representative is registered or is exempted from registration under this chapter.

Sec. 2. RCW 21.20.110 and 2003 c 288 s 4 are each amended to read as follows:

(1) The director may by order deny, suspend, revoke, restrict, condition, or limit any application or registration of any broker-dealer, salesperson, investment adviser representative, or investment adviser; or censure or fine the registrant or an officer, director, partner, or person performing similar functions for a registrant; if the director finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, director, or person performing similar functions:

(a) Has filed an application for registration under this section which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false, or misleading with respect to any material fact;

(b) Has willfully violated or willfully failed to comply with any provision of this chapter or a predecessor act or any rule or order under this chapter or a predecessor act, or any provision of chapter 21.30 RCW or any rule or order thereunder;

(c) Has been convicted, within the past ten years, of any misdemeanor involving a security, or a commodity contract or commodity option as defined in RCW 21.30.010, or any aspect of the securities, commodities, business investments, franchises, business opportunities, insurance, banking, or finance business, or any felony involving moral turpitude;

(d) Is permanently or temporarily enjoined or restrained by any court of competent jurisdiction in an action brought by the director, a state, or a federal government agency from engaging in or continuing any conduct or practice involving any aspect of the securities, commodities, business investments, franchises, business opportunities, insurance, banking, or finance business;

(e) Is the subject of an order entered after notice and opportunity for hearing:

(i) By the securities administrator of a state or by the Securities and Exchange Commission denying, revoking, barring, or suspending registration as a broker-dealer, salesperson, investment adviser, or investment adviser representative;

(ii) By the securities administrator of a state or by the Securities and Exchange Commission against a broker-dealer, salesperson, investment adviser, or an investment adviser representative;

(iii) By the Securities and Exchange Commission or self-regulatory organization suspending or expelling the registrant from membership in a self-regulatory organization; or

(iv) By a court adjudicating a United States Postal Service fraud;

The director may not commence a revocation or suspension proceeding more than one year after the date of the order relied on. The director may not enter an order on the basis of an order under another state securities act unless that order was based on facts that would constitute a ground for an order under this section;

(f) Is the subject of an order, adjudication, or determination, after notice and opportunity for hearing, by the Securities and Exchange Commission, the Commodities Futures Trading Commission, the Federal Trade Commission, or a securities or insurance regulator of any state that the person has violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment

Advisers Act of 1940, the Investment Company Act of 1940, the Commodities Exchange Act, the securities, insurance, or commodities law of any state, or a federal or state law under which a business involving investments, franchises, business opportunities, insurance, banking, or finance is regulated;

(g) Has engaged in dishonest or unethical practices in the securities or commodities business;

(h) Is insolvent, either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature; but the director may not enter an order against an applicant or registrant under this subsection (1)(h) without a finding of insolvency as to the applicant or registrant;

(i) Has not complied with a condition imposed by the director under RCW 21.20.100, or is not qualified on the basis of such factors as training, experience, or knowledge of the securities business, except as otherwise provided in subsection (2) of this section;

(j) Has failed to supervise reasonably a salesperson or an investment adviser representative, or employee, if the salesperson, investment adviser representative, or employee was subject to the person's supervision and committed a violation of this chapter or a rule adopted or order issued under this chapter. For the purposes of this subsection, no person fails to supervise reasonably another person, if:

(i) There are established procedures, and a system for applying those procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by another person of this chapter, or a rule or order under this chapter; and

(ii) The supervising person has reasonably discharged the duties and obligations required by these procedures and system without reasonable cause to believe that another person was violating this chapter or rules or orders under this chapter;

(k) Has failed to pay the proper filing fee within thirty days after being notified by the director of a deficiency, but the director shall vacate an order under this subsection (1)(k) when the deficiency is corrected;

(l) Within the past ten years has been found, after notice and opportunity for a hearing to have:

(i) Violated the law of a foreign jurisdiction governing or regulating the business of securities, commodities, insurance, or banking;

(ii) Been the subject of an order of a securities regulator of a foreign jurisdiction denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, or investment adviser representative; or

(iii) Been suspended or expelled from membership by a securities exchange or securities association operating under the authority of the securities regulator of a foreign jurisdiction;

(m) Is the subject of a cease and desist order issued by the Securities and Exchange Commission or issued under the securities or commodities laws of a state; or

(n) Refuses to allow or otherwise impedes the director from conducting an audit, examination, or inspection, or refuses access to any branch office or business location to conduct an audit, examination, or inspection.

(2) The director, by rule or order, may require that an examination, including an examination developed or approved by an organization of securities administrators, be taken by any class of or all applicants. The director, by rule or order, may waive the examination as to a person or class of persons if the administrator determines that the examination is not necessary or appropriate in the public interest or for the protection of investors.

(3) The director may issue a summary order pending final determination of a proceeding under this section upon a finding that it is in the public interest and necessary or appropriate for the protection of investors.

(4) The director may not impose a fine under this section except after notice and opportunity for hearing. The fine imposed under this section may not exceed ten thousand dollars for each act or omission that constitutes the basis for issuing the order. If a petition for judicial review has not been timely filed under RCW 34.05.542(2), a certified copy of the director's order requiring payment of the fine may be filed in the office of the clerk of the superior court in any county of this state. The clerk shall treat the order of the director in the same manner as a judgment of the superior court. The director's order so filed has the same effect as a judgment of the superior court and may be recorded, enforced, or satisfied in like manner.

(5) Withdrawal from registration as a broker-dealer, salesperson, investment adviser, or investment adviser representative becomes effective thirty days after receipt of an application to withdraw or within such shorter period as the administrator determines, unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective upon such conditions as the director, by order, determines. If no proceeding is pending or commenced and withdrawal automatically becomes effective, the administrator may nevertheless commence a revocation or suspension proceeding under subsection (1)(b) of this section within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

(6) A person who, directly or indirectly, controls a person not in compliance with any part of this section may also be sanctioned to the same extent as the noncomplying person, unless the controlling person acted in good faith and did not directly or indirectly induce the conduct constituting the violation or cause of action.

(7) In any action under subsection (1) of this section, the director may charge the costs, fees, and other expenses incurred by the director in the conduct of any administrative investigation, hearing, or court proceeding against any person found to be in violation of any provision of this section or any rule or order adopted under this section.

(8) In any action under subsection (1) of this section, the director may enter an order requiring an accounting, restitution, and disgorgement, including interest at the legal rate under RCW 4.56.110((~~(3)~~)). The director may by rule or order provide for payments to investors, rates of interest, periods of accrual, and other matters the director deems appropriate to implement this subsection.

(9) The director shall 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 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. 3. RCW 21.20.120 and 1994 c 256 s 11 are each amended to read as follows:

Upon the entry of an order under RCW 21.20.110, the director shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is a salesperson or investment adviser representative, that it has been entered and of the reasons therefor and that if requested by the applicant or registrant within ((~~fifteen~~)) twenty days after the receipt of the director's notification the matter will be promptly set down for hearing. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination. No order may be entered under RCW 21.20.110 denying or revoking registration without appropriate prior notice to the applicant or registrant (as well as the employer or prospective employer if the applicant or registrant is a salesperson or an investment adviser representative), opportunity for hearing, and written findings of fact and conclusions of law.

Sec. 4. RCW 21.20.140 and 1998 c 15 s 11 are each amended to read as follows:

It is unlawful for any person to offer or sell any security in this state unless: (1) The security is registered by coordination or qualification under this chapter; (2) the security or transaction is exempted under RCW 21.20.310 ((~~or~~)), 21.20.320, or 21.20.880; or (3) the security is a federal covered security, and, if required, the filing is made and a fee is paid in accordance with RCW 21.20.327.

Sec. 5. RCW 21.20.270 and 1995 c 46 s 3 are each amended to read as follows:

(1) The director may require the person who filed the registration statement to file reports, not more often than quarterly to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering with respect to registered securities which (a) are issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust as those terms are defined in the investment company act of 1940, or (b) are being offered and sold directly by or for the account of the issuer.

(2) During the period of public offering of securities registered under the provisions of this chapter by qualification financial data or statements corresponding to those required under the provisions of RCW 21.20.210 and to the issuer's fiscal year shall be filed with the director annually, not more than one hundred twenty days after the end of each such year. Such statements at the discretion of the director or administrator shall be ((~~certified~~)) audited by a certified public accountant who is not an employee of the issuer, and the director may verify them by examining the issuer's books and records. The ((~~certificate~~)) report of such independent certified public accountant shall be based upon an audit of not less in scope or procedures followed than that which independent

public accountants would ordinarily make for the purpose of presenting comprehensive and dependable financial statements, and shall contain such information as the director may prescribe, by rules in the public interest or for the protection of investors, as to the nature and scope of the audit and the findings and opinions of the accountants. Each such report shall state that such independent certified public accountant has verified securities owned, either by actual examination, or by receipt of a certificate from the custodian, as the director may prescribe by rules.

Sec. 6. RCW 21.20.275 and 1994 c 256 s 17 are each amended to read as follows:

The director may in his or her discretion send notice to the ((~~registrant~~)) applicant in any pending registration in which no action has been taken for nine months immediately prior to the sending of such notice, advising such ((~~registrant~~)) applicant that the pending registration will be terminated thirty days from the date of sending unless on or before the termination date the ((~~registrant~~)) applicant makes application in writing to the director showing good cause why it should be continued as a pending registration. If such application is not made or good cause shown, the director shall terminate the pending registration.

Sec. 7. RCW 21.20.280 and 1979 ex.s. c 68 s 17 are each amended to read as follows:

The director may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if the director finds that the order is in the public interest and that:

(1) The registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) Any provision of this chapter or any rule, order, or condition lawfully imposed under this chapter has been ((~~wilfully~~)) willfully violated, in connection with the offering by (a) the person filing the registration statement, (b) the issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer, or (c) any underwriter;

(3) The security registered or sought to be registered is the subject of a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but (a) the director may not institute a proceeding against an effective registration statement under this clause more than one year from the date of the injunction relied on, and (b) the director may not enter an order under this clause on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;

(4) The issuer's enterprise or method of business includes or would include activities which are illegal where performed;

(5) The offering has worked or tended to work a fraud upon purchasers or would so operate;

(6) When a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by RCW 21.20.180(7)((~~;~~ ~~or~~));

(7) The applicant or registrant has failed to pay the proper registration fee; but the director may enter only a denial order under this subsection and shall vacate any such order when the deficiency has been corrected; or

(8) The offering has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or compensation or promoters' profits or participation, or unreasonable amounts or kinds of options.

Sec. 8. RCW 21.20.300 and 1979 ex.s. c 68 s 19 are each amended to read as follows:

Upon the entry of a stop order under any part of RCW 21.20.280, the director shall promptly notify the issuer of the securities and the applicant or registrant that the order has been entered and of the reasons therefor and that within ((~~fifteen~~)) twenty days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested within ((~~fifteen~~)) twenty days and none is ordered by the director, the director shall enter written findings of fact and conclusions of law and the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearings to the issuer and to the applicant or registrant, shall enter written findings of fact and conclusions of law and may modify or vacate the order. The director may modify or vacate a stop order if the director finds that the conditions which prompted its entry have changed or that it is otherwise in the public interest to do so.

Sec. 9. RCW 21.20.325 and 1979 ex.s. c 68 s 22 are each amended to read as follows:

The director or administrator may by order deny, revoke, or condition any exemption specified in ((~~subsections (10), (11), (12) or (13) of RCW 21.20.310 or in~~)) RCW 21.20.310 (10), (11), (12) or (13), 21.20.320, ((~~as now or hereafter amended~~)) or 21.20.880, with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the director or administrator may by order summarily deny, revoke, or condition any of the specified exemptions pending final determination of any proceeding under this section. Upon the entry of a summary order, the director or administrator shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within ((~~fifteen~~)) twenty days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the director or administrator, the order will remain in effect until it is modified or vacated by the director or administrator. If a hearing is requested or ordered, the director or administrator, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this section may operate retroactively. No person may be considered to have violated RCW 21.20.140 as now or hereafter amended by reason of any offer or sale effected after the entry of an order under this section if he or she sustains the

burden of proof that he or she did not know, and in the exercise of reasonable care could not have known, of the order.

Sec. 10. RCW 21.20.340 and 1998 c 15 s 16 are each amended to read as follows:

The following fees shall be paid in advance under the provisions of this chapter:

(1)(a) For registration of securities by qualification, the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered during that year: PROVIDED, HOWEVER, That an issuer may upon the payment of a fifty dollar fee renew for one additional twelve-month period only the unsold portion for which the registration fee has been paid.

(b) For the offer of a federal covered security that (i) is an exempt security pursuant to section 3(2) of the Securities Act of 1933, and (ii) would not qualify for the exemption or a discretionary order of exemption pursuant to RCW 21.20.310(1), the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered during that year: PROVIDED, HOWEVER, That an issuer may upon the payment of a fifty dollar fee renew for one additional twelve-month period only the unsold portion for which the filing fee has been paid.

(2)(a) For registration by coordination of securities issued by an investment company, other than a closed-end company, as those terms are defined in the Investment Company Act of 1940, the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered in this state during that year: PROVIDED, HOWEVER, That an issuer may upon the payment of a fifty dollar fee renew for one additional twelve-month period the unsold portion for which the registration fee has been paid.

(b) For each offering by an investment company, other than a closed-end company, as those terms are defined in the Investment Company Act of 1940, making a notice filing pursuant to RCW 21.20.327(1), the initial filing fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered in this state during that year. The amount offered in this state during the year may be increased by paying one-twentieth of one percent of the desired increase, based on offering price, prior to the sale of securities to be covered by the fee: PROVIDED, HOWEVER, That an issuer may upon the payment of a fifty dollar fee renew for one additional twelve-month period the unsold portion for which the filing fee has been paid.

(3)(a) For registration by coordination of securities not covered by subsection (2) of this section, the initial filing fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-fortieth of one percent for any excess over one hundred thousand dollars for the first twelve-month period plus one

hundred dollars for each additional twelve months in which the same offering is continued. The amount offered in this state during the year may be increased by paying one-fortieth of one percent of the desired increase, based on offering price, prior to the sale of securities to be covered by the fee.

(b) For each offering by a closed-end investment company, making a notice filing pursuant to RCW 21.20.327(1), the initial filing fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-fortieth of one percent for any excess over one hundred thousand dollars for the first twelve-month period plus one hundred dollars for each additional twelve months in which the same offering is continued. The amount offered in this state during the year may be increased by paying one-fortieth of one percent of the desired increase, based on offering price, prior to the sale of securities to be covered by the fee.

(4) For filing annual financial statements, the fee shall be twenty-five dollars.

(5)(a) For filing an amended offering circular after the initial registration permit has been granted or pursuant to RCW 21.20.327(1)(b), the fee shall be ten dollars.

(b) For filing a report under RCW 21.20.270(1) or 21.20.327(1)(c), the fee shall be ten dollars.

(6)(a) For registration of a broker-dealer or investment adviser, the fee shall be one hundred fifty dollars for original registration and seventy-five dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(b) For a federal covered adviser filing pursuant to RCW 21.20.050, the fee shall be one hundred fifty dollars for original notification and seventy-five dollars for each annual renewal. A fee shall not be assessed in connection with converting an investment adviser registration to a notice filing when the investment adviser becomes a federal covered adviser.

(7) For registration of a salesperson or investment adviser representative, the fee shall be forty dollars for original registration with each employer and twenty dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(8) If a registration, or filing pursuant to RCW 21.20.050, of a broker-dealer, salesperson, investment adviser, federal covered adviser, or investment adviser representative is not renewed on or before ((~~December 31st of each year~~)) the renewal deadline specified in the central registration depository (CRD) or the investment adviser registration depository (IARD), as applicable, the renewal is delinquent. The director by rule or order may set and assess a fee for delinquency not to exceed two hundred dollars. Acceptance by the director of an application for renewal after ((~~December 31st~~)) the renewal deadline specified in the CRD or the IARD, as applicable, is not a waiver of delinquency. A delinquent application for renewal will not be accepted for filing after March 1st.

(9)(a) For the transfer of a broker-dealer license to a successor, the fee shall be fifty dollars.

(b) For the transfer of a salesperson license from a broker-dealer or issuer to another broker-dealer or issuer, the transfer fee shall be twenty-five dollars.

(c) For the transfer of an investment adviser representative license from an investment adviser to another investment adviser, the transfer fee shall be twenty-five dollars.

(d) For the transfer of an investment adviser license to a successor, the fee shall be fifty dollars.

(10)(a) The director may provide by rule for the filing of notice of claim of exemption under RCW 21.20.320 (1), (9), and (17) and set fees accordingly not to exceed three hundred dollars.

(b) For the filing required by RCW 21.20.327(2), the fee shall be three hundred dollars.

(11) For filing of notification of claim of exemption from registration pursuant to RCW 21.20.310(11), as now or hereafter amended, the fee shall be fifty dollars for each filing.

(12) For rendering interpretative opinions, the fee shall be thirty-five dollars.

(13) For certified copies of any documents filed with the director, the fee shall be the cost to the department.

(14) For a duplicate license the fee shall be five dollars.

All fees collected under this chapter shall be turned in to the state treasury and are not refundable, except as herein provided.

Sec. 11. RCW 21.20.360 and 1975 1st ex.s. c 84 s 21 are each amended to read as follows:

Neither the fact that an application for registration under RCW 21.20.050, a registration statement under RCW 21.20.180 or 21.20.210 has been filed, nor the fact that a person or security ((~~if [is]~~)) is effectively registered, constitutes a finding by the director that any document filed under this chapter is true, complete, and not misleading. Neither any such fact nor the fact that an exemption or exception is available for a security or a transaction means that the director has passed in any way upon the merits ((~~of [or]~~)) or qualifications of, or recommended or given approval to, any person, security, or transaction. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with this section.

Sec. 12. RCW 21.20.390 and 2003 c 288 s 5 are each amended to read as follows:

Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, the director may in his or her discretion:

(1) Issue an order directing the person to cease and desist from continuing the act or practice and to take appropriate affirmative action within a reasonable period of time, as prescribed by the director, to correct conditions resulting from the act or practice including, without limitation, a requirement to provide restitution. Reasonable notice of and opportunity for a hearing shall be given. The director may issue a summary order pending the hearing which shall remain in effect until ten days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within twenty days after the receipt of notice; or

(2) The director may without issuing a cease and desist order, bring an action in any court of competent jurisdiction to enjoin any such acts or practices

and to enforce compliance with this chapter or any rule or order adopted under this chapter. The court may grant such ancillary relief, including a civil penalty, restitution, and disgorgement, as it deems appropriate. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The director may not be required to post a bond. If the director prevails, the director shall be entitled to a reasonable attorney's fee to be fixed by the court.

(3) Whenever it appears to the director that any person who has received a permit to issue, sell, or otherwise dispose of securities under this chapter, whether current or otherwise, has become insolvent, the director may petition a court of competent jurisdiction to appoint a receiver or conservator for the defendant or the defendant's assets. The director may not be required to post a bond.

(4) The director may bring an action for restitution or damages on behalf of the persons injured by a violation of this chapter, if the court finds that private civil action would be so burdensome or expensive as to be impractical.

(5) In any action under this section, the director may charge the costs, fees, and other expenses incurred by the director in the conduct of any administrative investigation, hearing, or court proceeding against any person found to be in violation of any provision of this section or any rule or order adopted under this section.

(6) In any action under subsection (1) of this section, the director may enter an order requiring an accounting, restitution, and disgorgement, including interest at the legal rate under RCW 4.56.110((~~(3)~~)). The director may by rule or order provide for payments to investors, interest rates, periods of accrual, and other matters the director deems appropriate to implement this subsection.

Sec. 13. RCW 21.20.400 and 2003 c 288 s 3 and 2003 c 53 s 163 are each reenacted to read as follows:

(1) Any person who willfully violates any provision of this chapter except RCW 21.20.350, or who willfully violates any rule or order under this chapter, or who willfully violates RCW 21.20.350 knowing the statement made to be false or misleading in any material respect, is guilty of a class B felony punishable under RCW 9A.20.021(1)(b). However, a person may not be imprisoned for the violation of any rule or order if that person proves that he or she had no knowledge of the rule or order.

(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 object's integrity or availability for use in an official proceeding under this chapter, is guilty of a class B felony punishable under RCW 9A.20.021(1)(b) or punishable by a fine of not more than five hundred thousand dollars, or both. The fines paid under this subsection shall be deposited into the securities prosecution fund.

(3) No indictment or information may be returned under this chapter 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.

Sec. 14. RCW 21.20.710 and 1988 c 244 s 3 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a debenture company shall not offer for sale any security other than capital stock if such sale would result in the violation of the following capital requirements:

(a) For outstanding securities other than capital stock totaling from $1 to $1,000,000, a debenture company shall have a net worth of at least $200,000.

(b) In addition to the requirement set forth in (a) of this subsection:

(i) A debenture company with outstanding securities other than capital stock totaling in excess of $1,000,000 but not over $100,000,000 shall have additional net worth equal to at least ten percent of the outstanding securities in excess of $1,000,000 but not over $100,000,000; and

(ii) A debenture company with outstanding securities other than capital stock totaling in excess of $100,000,000 shall have additional net worth equal to at least five percent of the outstanding securities in excess of $100,000,000.

(c) Every debenture company shall hold at least one-half the amount of its required net worth in cash or comparable liquid assets as defined by rule, or shall demonstrate comparable liquidity to the satisfaction of the director.

(2) The director may for good cause in the interest of the existing investors, waive the requirements of subsection (1) of this section. If the director waives the minimum requirements set forth in subsection (1) of this section, the debenture company shall increase its ((~~new [net]~~)) net worth or liquidity in accordance with conditions imposed by the director until such time as the debenture company can meet the requirements of this section without waiver from the director.

Sec. 15. RCW 21.20.727 and 1987 c 421 s 5 are each amended to read as follows:

(1) It is unlawful for any person to acquire control of a debenture company until thirty days after filing with the director a copy of the notice of change of control on the form specified by the director. The notice or application shall be under oath and contain substantially all of the following information plus any additional information that the director may prescribe as necessary or appropriate in the particular instance for the protection of investors, borrowers, or shareholders and the public interest:

(a) The identity and business experience of each person by whom or on whose behalf acquisition is to be made;

(b) The financial and managerial resources and future prospects of each person involved in the acquisition;

(c) The terms and conditions of any proposed acquisition and the manner in which the acquisition is to be made;

(d) The source and amount of the funds or other consideration used or to be used in making the acquisition, and a description of the transaction and the names of the parties if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition;

(e) Any plan or proposal which any person making the acquisition may have to liquidate the debenture company, to sell its assets, to merge it with any other company, or to make any other major change in its business or corporate structure or management;

(f) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on its behalf, who makes

solicitations or recommendations to shareholders for the purpose of assisting in the acquisition and a brief description of the terms of the employment, retainer, or arrangement for compensation; and

(g) Copies of all invitations for tenders or advertisements making a tender offer to shareholders for the purchase of their stock to be used in connection with the proposed acquisition.

(2) When a person, other than an individual or corporation, is required to file an application under this section, the director may require that the information required by subsection (1)(a), (b), and (f) of this section be given with respect to each person who has an interest in or controls a person filing an application under this subsection.

(3) When a corporation is required to file an application under this section, the director may require that the information required by subsection (1)(a), (b), and (f) of this section be given for the company, each officer and director of the company, and each person who is directly or indirectly the beneficial owner of twenty-five percent or more of the outstanding voting securities of the company.

(4) If any tender offer, request, or invitation for tenders or other agreements to acquire control is proposed to be made by means of a registration statement under the Securities Act of 1933 (((~~48 Stat. 74; 15 U.S.C. Sec. 77(a)~~))), as amended, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934 (((~~48 Stat. 881; 15 U.S.C. Sec. 78(a)~~))), as amended, the registration statement or application may be filed with the director in lieu of the requirements of this section.

(5) Any acquiring party shall also deliver a copy of any notice or application required by this section to the debenture company proposed to be acquired within two days after the notice or application is filed with the director.

(6) Any acquisition of control in violation of this section shall be ineffective and void.

(7) Any person who ((~~wilfully~~)) willfully or intentionally violates this section or any rule adopted pursuant thereto is guilty of a gross misdemeanor and shall be punished pursuant to chapter 9A.20 RCW. Each day's violation shall be considered a separate violation.

Sec. 16. RCW 21.20.883 and 2014 c 144 s 4 are each amended to read as follows:

(1) Only a local associate development organization, as defined in RCW 43.330.010, a port district, or an organization that qualifies as a portal pursuant to regulations promulgated by the director, may work in collaboration with the director to act as a portal under this chapter.

(2) A portal shall require, at a minimum, the following information from an applicant for exemption prior to offering services to the applicant or forwarding the applicant's materials to the director:

(a) A description of the issuer, including type of entity, location, and business plan, if any;

(b) The applicant's intended use of proceeds from ((~~an~~)) the offering ((~~under chapter 144, Laws of 2014~~));

(c) Identities of officers, directors, managing members, and ten percent beneficial owners, as applicable;

(d) A description of any outstanding securities; and

(e) A description of any litigation or legal proceedings involving the applicant, its officers, directors, managing members, or ten percent beneficial owners, as applicable.

(3) Upon receipt of the information described in subsection (2) of this section, the portal may offer services to the applicant that the portal deems appropriate or necessary to meet the criteria for exemption under RCW 21.20.880 and 21.20.886. Such services may include assistance with development of a business plan, referral to legal services, and other technical assistance in preparation for a public securities offering.

(4) The portal shall forward the materials necessary for the applicant to qualify for exemption to the director for filing when the portal is satisfied that the applicant has assembled the necessary information and materials to meet the criteria for exemption under RCW 21.20.880 and 21.20.886.

(5) The portal shall work in collaboration with the director for the purposes of executing the offering upon filing with the director.

Passed by the Senate February 15, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 62

[Engrossed Substitute Senate Bill 6293]

STUDENT VOLUNTEERS AND UNPAID STUDENTS--MEDICAL AID BENEFITS

AN ACT Relating to student volunteers and unpaid students; amending RCW 51.12.170; adding a new section to chapter 51.12 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds that: (1) School-sponsored, unpaid work-based learning, including cooperative education, clinical experiences, and internship programs are a valuable component of many college certifications and degrees; (2) the opportunity to provide labor and industries' medical aid coverage to students in these programs will encourage employers to participate in school-sponsored, unpaid work-based learning, potentially improving employment opportunities for students; and (3) education improves economic viability in communities and in the state of Washington.

Sec. 2. RCW 51.12.170 and 1994 c 246 s 1 are each amended to read as follows:

(1) An employer covered under this title may elect to include student volunteers or unpaid students as employees or workers for all purposes relating to medical aid benefits under chapter 51.36 RCW. The employer shall give notice of its intent to cover all of its student volunteers or unpaid students to the director prior to the occurrence of the injury or contraction of an occupational disease.

(2) A student volunteer is an enrolled student in a public school as defined in RCW 28A.150.010, a private school governed under chapter 28A.195 RCW, or a state public or private institution of higher education, who is participating as a volunteer under a program authorized by the ((~~public~~)) school. The student volunteer shall perform duties for the employer without wages. The student

volunteer shall be deemed to be a volunteer even if the student is granted maintenance and reimbursement for actual expenses necessarily incurred in performing his or her assigned or authorized duties. A person who earns wages for the services performed is not a student volunteer.

(3) An unpaid student is an enrolled student in a state public or private institution of higher education who is participating in an unpaid work-based learning program authorized by the school. The unpaid student shall perform duties for the employer without wages but receives credit towards completing the school program, certification, or degree in return for the services provided.

(4) Any and all premiums or assessments due under this title on account of service by a student volunteer or unpaid student shall be paid by the employer who has registered and accepted the services of student volunteers or engaged in an approved student work-based learning program authorized by the school and has exercised its option to secure the medical aid benefits under chapter 51.36 RCW for the student volunteers or unpaid students.

(5) For the purposes of this section, "unpaid student" includes a student in school-sponsored, unpaid work-based learning, including cooperative education, clinical experiences, and internship programs.

NEW SECTION. **Sec. 3.** A new section is added to chapter 51.12 RCW to read as follows:

An employer who has registered and accepted the services of volunteers, student volunteers, or unpaid students, who are eligible for medical aid benefits under this chapter, may annually elect to pay the premiums and assessments due under this title at the rate due for one hundred hours of volunteer service for each volunteer, student volunteer, or unpaid student instead of tracking the actual number of hours for each volunteer, student volunteer, or unpaid student. An employer selecting this option must use the method to cover all their volunteers, student volunteers, or unpaid students for the calendar year.

Passed by the Senate March 8, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 63

[Substitute Senate Bill 6337]

TAX FORECLOSED PROPERTY--SALE TO CITIES--USE AS AFFORDABLE HOUSING

AN ACT Relating to disposing tax foreclosed property to cities for affordable housing purposes; and amending RCW 36.35.150.

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

Sec. 1. RCW 36.35.150 and 2001 c 299 s 11 are each amended to read as follows:

(1) The county legislative authority may dispose of tax foreclosed property by private negotiation, without a call for bids, for not less than the principal amount of the unpaid taxes in any of the following cases: (((~~(1)~~))) (a) When the sale is to any governmental agency and for public purposes; (((~~(2)~~))) (b) when the county legislative authority determines that it is not practical to build on the property due to the physical characteristics of the property or legal restrictions

on construction activities on the property; (((~~(3)~~))) (c) when the property has an assessed value of less than five hundred dollars and the property is sold to an adjoining landowner; or (((~~(4)~~))) (d) when no acceptable bids were received at the attempted public auction of the property, if the sale is made within twelve months from the date of the attempted public auction.

(2) Except when a county legislative authority purchases the tax-foreclosed property for public purposes, the county legislative authority must give notice to any city in which any tax foreclosed property is located within at least sixty days of acquiring such property, and the county may not dispose of the property at public auction or by private negotiation before giving such notice. The notice must offer the city the opportunity to purchase the property for the original minimum bid under RCW 84.64.080, together with any direct costs incurred by the county in the sale. If the city chooses to purchase the property, the following conditions apply:

(a) The city must accept the offer within thirty days of receiving notice, unless the county agrees to extend the offer;

(b) The city must provide that the property is suitable and will be used for an affordable housing development as defined in RCW 36.130.010; and

(c) The city must agree to transfer the property to a local housing authority or other nonprofit entity eligible to receive assistance from the affordable housing program under chapter 43.185A RCW. The city must be reimbursed by the housing authority or other nonprofit entity for the amount the city paid to purchase the property together with any direct costs incurred by the city in the transfer to the housing authority or other nonprofit entity.

Passed by the Senate March 8, 2016.
Passed by the House March 1, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 64

[Senate Bill 6400]

FISH AND WILDLIFE--ENFORCEMENT LAWS--CLARIFICATION

AN ACT Relating to the technical changes that clarify fish and wildlife enforcement laws; amending RCW 77.15.370, 77.15.400, and 77.15.420; and prescribing penalties.

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

Sec. 1. RCW 77.15.370 and 2014 c 48 s 13 are each amended to read as follows:

(1) A person is guilty of unlawful recreational fishing in the first degree if:

(a) The person takes or possesses two times or more than the bag limit or possession limit of fish or shellfish allowed by any rule of the director or commission setting the amount of food fish, game fish, or shellfish that can be taken or possessed for noncommercial use;

(b) The person fishes in a fishway;

(c) The person shoots, gaffs, snags, snares, spears, dipnets, or stones fish or shellfish in state waters, or possesses fish or shellfish taken by such means, unless such means are authorized by express department rule;

(d) The person fishes for or possesses a fish listed as threatened or endangered in 50 C.F.R. Sec. 223.102 (2006) or Sec. 224.101 (2010), unless fishing for or possessing such fish is specifically allowed under federal or state law;

(e) The person possesses a white sturgeon measuring in excess of the maximum size limit as established by rules adopted by the department;

(f) The person possesses a green sturgeon of any size; or

(g)(i) The person possesses a wild salmon or wild steelhead during a season closed for wild salmon or wild steelhead.

(ii) For the purposes of this subsection:

(A) "Wild salmon" means a salmon with an unclipped adipose fin, regardless of whether the salmon's ventral fin is clipped. A salmon is considered to have an unclipped adipose fin if it does not have a healed scar at the location of the clipped adipose fin.

(B) "Wild steelhead" means a steelhead with no fins clipped.

(2) Unlawful recreational fishing in the first degree is a gross misdemeanor.

(3) In addition to the penalties set forth in subsection (2) of this section, if a person is convicted of violating this section and the violation results in the death of fish listed in this subsection, the court shall require payment of the following amounts for each fish taken or possessed. This is a criminal wildlife penalty assessment that must 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) White sturgeon longer than fifty-five inches in fork length, two thousand dollars;

(b) Green sturgeon, two thousand dollars; and

(c) Wild salmon or wild steelhead, five hundred dollars.

(4) If two or more persons are convicted under subsection (1) of this section, and subsection (3) of this section is applicable, the criminal wildlife penalty assessment must be imposed against the persons jointly and severally.

(5)(a) The criminal wildlife penalty assessment under subsection (3) of this section must be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this section. The criminal wildlife penalty assessment must be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect.

(b) This subsection 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.

(6) A defaulted criminal wildlife penalty assessment authorized under subsection (3) of this section 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.

(7) The department shall revoke the fishing license and suspend the fishing privileges of a person assessed a criminal wildlife penalty assessment under this section until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed.

(8) The criminal wildlife penalty assessments provided in subsection (3) of this section must be doubled in the following instances:

(a) When a person commits a violation that requires payment of a criminal wildlife penalty assessment within five years of a prior gross misdemeanor or felony conviction under this title; or

(b) When the trier of fact determines that the person took or possessed the fish in question with the intent of bartering, selling, or otherwise deriving economic profit from the fish or fish parts.

Sec. 2. RCW 77.15.400 and 2012 c 176 s 25 are each amended to read as follows:

(1) A person is guilty of unlawful hunting of wild birds in the second degree if the person hunts for wild birds and, whether or not the person possesses wild birds, the person has not purchased the appropriate hunting license, tags, stamps, and permits issued to Washington residents or nonresidents under chapter 77.32 RCW.

(2) A person is guilty of unlawful hunting of wild birds in the second degree if the person takes or possesses less than two times the bag or possession limit of wild birds and the person:

(a) Owns, but does not have in the person's possession, all licenses, tags, stamps, and permits required under this title; or

(b) Violates any department rule regarding seasons, bag or possession limits, closed areas, closed times, or the manner or method of hunting or possession of wild birds.

(3) A person is guilty of unlawful hunting of wild birds in the first degree if the person takes or possesses two times or more than the possession or bag limit for wild birds allowed by department rule.

(4)(a) Unlawful hunting of wild birds in the second degree is a misdemeanor.

(b) Unlawful hunting of wild birds in the first degree is a gross misdemeanor.

(5) In addition to the penalties set forth in this section, if a person, other than a youth as defined in RCW 77.08.010 for hunting purposes, violates a department rule that requires the use of nontoxic shot, upon conviction:

(a) The court shall require a payment of one thousand dollars as a criminal wildlife penalty assessment that must be paid to the clerk of the court and distributed to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425. The criminal wildlife penalty assessment must be imposed regardless of and in addition to any sentence, fine, or costs imposed for violating this section. The criminal wildlife penalty assessment must be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect; and

(b) The department shall revoke the hunting license of the person and order a suspension of small game hunting privileges for two years.

Sec. 3. RCW 77.15.420 and 2015 c 265 s 38 are each amended to read as follows:

(1) If 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. <u>This revocation and suspension is in addition to and runs concurrently with any revocation and suspension required by law.</u>

(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.

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CHAPTER 65

[Senate Bill 6405]

CIVILIAN HEALTH AND MEDICAL PROGRAM--TREATED AS GROUP DISABILITY INSURANCE

AN ACT Relating to the civilian health and medical program for the veterans affairs administration; amending RCW 48.21.010; and reenacting and amending RCW 48.43.005.

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

Sec. 1. RCW 48.21.010 and 2011 c 81 s 1 are each amended to read as follows:

(1) Group disability insurance is that form of disability insurance, including stop loss insurance as defined in RCW 48.11.030, provided by a master policy issued to an employer, to a trustee appointed by an employer or employers, or to an association of employers formed for purposes other than obtaining such insurance, covering, with or without their dependents, the employees, or specified categories of the employees, of such employers or their subsidiaries or affiliates, or issued to a labor union, or to an association of employees formed for purposes other than obtaining such insurance, covering, with or without their dependents, the members, or specified categories of the members, of the labor union or association, or issued pursuant to RCW 48.21.030. Group disability insurance includes the following groups that qualify for group life insurance:

RCW 48.24.020, 48.24.035, 48.24.040, 48.24.045, 48.24.050, 48.24.060, 48.24.070, 48.24.080, 48.24.090, and 48.24.095. A group under RCW 48.24.027 does not qualify as a group for the purposes of this chapter.

(2) Group disability insurance for lines of coverage identified in RCW 48.43.005(((~~(19)~~))) (26) (e), (h), ((~~and~~)) (k), and (m) offered to a resident of this state under a group disability insurance policy may be issued to a group other than the groups described in subsection (1) of this section subject to the requirements in this subsection.

(a) A group disability insurance policy offered under this subsection may not be delivered in this state unless the commissioner finds that:

(i) The issuance of the group policy is not contrary to the best interest of the public;

(ii) The issuance of the group policy would result in economies of acquisition or administration; and

(iii) The benefits are reasonable in relation to the premium charged.

(b) A group disability insurance coverage may not be offered under this subsection in this state by an insurer under a policy issued in another state unless the commissioner or the insurance commissioner of another state having requirements substantially similar to those contained in this subsection has made a determination that the requirements have been met.

Sec. 2. RCW 48.43.005 and 2012 c 211 s 17 and 2012 c 87 s 1 are each reenacted and amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Adverse benefit determination" means a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit, including a denial, reduction, termination, or failure to provide or make payment that is based on a determination of an enrollee's or applicant's eligibility to participate in a plan, and including, with respect to group health plans, a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit resulting from the application of any utilization review, as well as a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(3) "Applicant" means a person who applies for enrollment in an individual health plan as the subscriber or an enrollee, or the dependent or spouse of a subscriber or enrollee.

(4) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(5) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(6) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(7) "Board" means the governing board of the Washington health benefit exchange established in chapter 43.71 RCW.

(8)(a) For grandfathered health benefit plans issued before January 1, 2014, and renewed thereafter, "catastrophic health plan" means:

(i) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand seven hundred fifty dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand five hundred dollars, both amounts to be adjusted annually by the insurance commissioner; and

(ii) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered

benefits of at least six thousand dollars, both amounts to be adjusted annually by the insurance commissioner.

(b) In July 2008, and in each July thereafter, the insurance commissioner shall adjust the minimum deductible and out-of-pocket expense required for a plan to qualify as a catastrophic plan to reflect the percentage change in the consumer price index for medical care for a preceding twelve months, as determined by the United States department of labor. For a plan year beginning in 2014, the out-of-pocket limits must be adjusted as specified in section 1302(c)(1) of P.L. 111-148 of 2010, as amended. The adjusted amount shall apply on the following January 1st.

(c) For health benefit plans issued on or after January 1, 2014, "catastrophic health plan" means:

(i) A health benefit plan that meets the definition of catastrophic plan set forth in section 1302(e) of P.L. 111-148 of 2010, as amended; or

(ii) A health benefit plan offered outside the exchange marketplace that requires a calendar year deductible or out-of-pocket expenses under the plan, other than for premiums, for covered benefits, that meets or exceeds the commissioner's annual adjustment under (b) of this subsection.

(9) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(10) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(11) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(12) "Dependent" means, at a minimum, the enrollee's legal spouse and dependent children who qualify for coverage under the enrollee's health benefit plan.

(13) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition (a) placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, (b) serious impairment to bodily functions, or (c) serious dysfunction of any bodily organ or part.

(14) "Emergency services" means a medical screening examination, as required under section 1867 of the social security act (42 U.S.C. 1395dd), that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate that emergency medical condition, and further medical examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital, as are required under section 1867 of the social security act (42 U.S.C. 1395dd) to stabilize the patient. Stabilize, with respect to an emergency medical condition, has the meaning given in section 1867(e)(3) of the social security act (42 U.S.C. 1395dd(e)(3)).

(15) "Employee" has the same meaning given to the term, as of January 1, 2008, under section 3(6) of the federal employee retirement income security act of 1974.

(16) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(17) "Exchange" means the Washington health benefit exchange established under chapter 43.71 RCW.

(18) "Final external review decision" means a determination by an independent review organization at the conclusion of an external review.

(19) "Final internal adverse benefit determination" means an adverse benefit determination that has been upheld by a health plan or carrier at the completion of the internal appeals process, or an adverse benefit determination with respect to which the internal appeals process has been exhausted under the exhaustion rules described in RCW 48.43.530 and 48.43.535.

(20) "Grandfathered health plan" means a group health plan or an individual health plan that under section 1251 of the patient protection and affordable care act, P.L. 111-148 (2010) and as amended by the health care and education reconciliation act, P.L. 111-152 (2010) is not subject to subtitles A or C of the act as amended.

(21) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(22) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(23) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(24) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(25) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW

48.44.010, or a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in the patient protection and affordable care act (P.L. 111-148).

(26) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 or 48.83 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit;

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage; ((~~and~~))

(l) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner; and

(m) Civilian health and medical program for the veterans affairs administration (CHAMPVA).

(27) "Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(28) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(29) "Open enrollment" means a period of time as defined in rule to be held at the same time each year, during which applicants may enroll in a carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(30) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(31) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(32) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(33) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that employed an average of at least one but no more than fifty employees, during the previous calendar year and employed at least one employee on the first day of the plan year, is not formed primarily for purposes of buying health insurance, and in which a bona fide employer-employee relationship exists. In determining the number of employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor who is covered as a group of one must also: (a) Have been employed by the same small employer or small group for at least twelve months prior to application for small group coverage, and (b) verify that he or she derived at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year, except a self-employed individual or sole proprietor in an agricultural trade or business, must have derived at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year.

(34) "Special enrollment" means a defined period of time of not less than thirty-one days, triggered by a specific qualifying event experienced by the applicant, during which applicants may enroll in the carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(35) "Standard health questionnaire" means the standard health questionnaire designated under chapter 48.41 RCW.

(36) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(37) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

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CHAPTER 66

[Engrossed Senate Bill 6413]

LANDLORD-TENANT--SCREENING REPORTS AND DEPOSIT REFUNDS

AN ACT Relating to tenant screening, evictions, and refunds under the residential landlord-tenant act; amending RCW 59.18.257 and 59.18.280; reenacting and amending RCW 59.18.030; and adding a new section to chapter 59.18 RCW.

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

Sec. 1. RCW 59.18.030 and 2015 c 264 s 1 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) "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.

(3) "Designated person" means a person designated by the tenant under RCW 59.18.590.

(4) "Distressed home" has the same meaning as in RCW 61.34.020.

(5) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(6) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(7) "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.

(8) "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.

(9) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

(10) "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.

(11) "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.

(12) "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.

(13) "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.

(14) "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.

(15) "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.

(16) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(17) "Prospective landlord" means a landlord or a person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(18) "Prospective tenant" means a tenant or a person who has applied for residential housing that is governed under this chapter.

(19) "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.

(20) "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.

(21) "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.

(22) "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.

(23) 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.

(24) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

(25) "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.

(26) "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.

(27) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service.

(28) "Comprehensive reusable tenant screening report" means a tenant screening report prepared by a consumer reporting agency at the direction of and paid for by the prospective tenant and made available directly to a prospective landlord at no charge, which contains all of the following: (a) A consumer credit report prepared by a consumer reporting agency within the past thirty days; (b) the prospective tenant's criminal history; (c) the prospective tenant's eviction history; (d) an employment verification; and (e) the prospective tenant's address and rental history.

(29) "Criminal history" means a report containing or summarizing (a) the prospective tenant's criminal convictions and pending cases, the final disposition of which antedates the report by no more than seven years, and (b) the results of a sex offender registry and United States department of the treasury's office of foreign assets control search, all based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(30) "Eviction history" means a report containing or summarizing the contents of any records of unlawful detainer actions concerning the prospective tenant that are reportable in accordance with state law, are lawful for landlords to consider, and are obtained after a search based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

Sec. 2. RCW 59.18.257 and 2012 c 41 s 3 are each amended to read as follows:

(1)(a) Prior to obtaining any information about a prospective tenant, the prospective landlord shall first notify the prospective tenant in writing, or by posting, of the following:

(i) What types of information will be accessed to conduct the tenant screening;

(ii) What criteria may result in denial of the application; ((~~and~~))

(iii) If a consumer report is used, the name and address of the consumer reporting agency and the prospective tenant's rights to obtain a free copy of the consumer report in the event of a denial or other adverse action, and to dispute the accuracy of information appearing in the consumer report; and

(iv) Whether or not the landlord will accept a comprehensive reusable tenant screening report made available to the landlord by a consumer reporting agency. If the landlord indicates its willingness to accept a comprehensive reusable tenant screening report, the landlord may access the landlord's own tenant screening report regarding a prospective tenant as long as the prospective tenant is not charged for the landlord's own tenant screening report.

(b)(i) The landlord may charge a prospective tenant for costs incurred in obtaining a tenant screening report only if the prospective landlord provides the information as required in (a) of this subsection.

(ii) If a prospective landlord conducts his or her own screening of tenants, the prospective landlord may charge his or her actual costs in obtaining the background information only if the prospective landlord provides the information as required in (a) of this subsection. The amount charged may not exceed the customary costs charged by a screening service in the general area.

The prospective landlord's actual costs include costs incurred for long distance phone calls and for time spent calling landlords, employers, and financial institutions.

(c) If a prospective landlord takes an adverse action, the prospective landlord shall provide a written notice of the adverse action to the prospective tenant that states the reasons for the adverse action. The adverse action notice must contain the following information in a substantially similar format, including additional information as may be required under chapter 19.182 RCW:

"ADVERSE ACTION NOTICE

Name
Address
City/State/Zip Code

This notice is to inform you that your application has been:
..... Rejected
..... Approved with conditions:
..... Residency requires an increased deposit
..... Residency requires a qualified guarantor
..... Residency requires last month's rent
..... Residency requires an increased monthly rent of $.....
..... Other:

Adverse action on your application was based on the following:
..... Information contained in a consumer report (The prospective landlord must include the name, address, and phone number of the consumer reporting agency that furnished the consumer report that contributed to the adverse action.)
..... The consumer credit report did not contain sufficient information
..... Information received from previous rental history or reference
..... Information received in a criminal record
..... Information received in a civil record
..... Information received from an employment verification

Dated this ..... day of ....., ((~~20~~))....(year)

Agent/Owner Signature"

(2) Any landlord who maintains a web site advertising the rental of a dwelling unit or as a source of information for current or prospective tenants must include a statement on the property's home page stating whether or not the landlord will accept a comprehensive reusable tenant screening report made available to the landlord by a consumer reporting agency. If the landlord indicates its willingness to accept a comprehensive reusable tenant screening report, the landlord may access the landlord's own tenant screening report regarding a prospective tenant as long as the prospective tenant is not charged for the landlord's own tenant screening report.

(3) Any landlord or prospective landlord who violates subsection (1) of this section may be liable to the prospective tenant for an amount not to exceed one hundred dollars. The prevailing party may also recover court costs and reasonable attorneys' fees.

((~~(3) A stakeholder work group comprised of landlords, tenant advocates, and representatives of consumer reporting and tenant screening companies shall convene for the purposes of addressing the issues of tenant screening including, but not limited to: A tenant's cost of obtaining a tenant screening report; the portability of tenant screening reports; criteria used to evaluate a prospective tenant's background, including which court records may or may not be considered; and the regulation of tenant screening services. Specific recommendations on these issues are due to the legislature by December 1, 2012.~~))

(4) This section does not limit a prospective tenant's rights or the duties of a screening service as otherwise provided in chapter 19.182 RCW.

NEW SECTION. **Sec. 3.** A new section is added to chapter 59.18 RCW to read as follows:

(1) A court may order an unlawful detainer action to be of limited dissemination for one or more persons if: (a) The court finds that the plaintiff's case was sufficiently without basis in fact or law; (b) the tenancy was reinstated under RCW 59.18.410 or other law; or (c) other good cause exists for limiting dissemination of the unlawful detainer action.

(2) An order to limit dissemination of an unlawful detainer action must be in writing.

(3) When an order for limited dissemination of an unlawful detainer action has been entered with respect to a person, a tenant screening service provider must not: (a) Disclose the existence of that unlawful detainer action in a tenant screening report pertaining to the person for whom dissemination has been limited, or (b) use the unlawful detainer action as a factor in determining any score or recommendation to be included in a tenant screening report pertaining to the person for whom dissemination has been limited.

Sec. 4. RCW 59.18.280 and 2010 c 8 s 19027 are each amended to read as follows:

(1) Within ((~~fourteen~~)) twenty-one days after the termination of the rental agreement and vacation of the premises or, if the tenant abandons the premises as defined in RCW 59.18.310, within ((~~fourteen~~)) twenty-one days after the landlord learns of the abandonment, the landlord shall give a full and specific statement of the basis for retaining any of the deposit together with the payment of any refund due the tenant under the terms and conditions of the rental agreement.

(a) No portion of any deposit shall be withheld on account of wear resulting from ordinary use of the premises.

(b) The landlord complies with this section if the required statement or payment, or both, are delivered to the tenant personally or deposited in the United States mail properly addressed to the tenant's last known address with first-class postage prepaid within the ((~~fourteen~~)) twenty-one days.

((~~The notice shall be delivered to the tenant personally or by mail to his or her last known address.~~)) (2) If the landlord fails to give such statement together with any refund due the tenant within the time limits specified above he or she shall be liable to the tenant for the full amount of the deposit. The landlord is also barred in any action brought by the tenant to recover the deposit from asserting any claim or raising any defense for retaining any of the deposit unless

the landlord shows that circumstances beyond the landlord's control prevented the landlord from providing the statement within the ((~~fourteen~~)) twenty-one days or that the tenant abandoned the premises as defined in RCW 59.18.310. The court may in its discretion award up to two times the amount of the deposit for the intentional refusal of the landlord to give the statement or refund due. In any action brought by the tenant to recover the deposit, the prevailing party shall additionally be entitled to the cost of suit or arbitration including a reasonable attorneys' fee.

(3) Nothing in this chapter shall preclude the landlord from proceeding against, and the landlord shall have the right to proceed against a tenant to recover sums exceeding the amount of the tenant's damage or security deposit for damage to the property for which the tenant is responsible together with reasonable attorneys' fees.

Passed by the Senate March 9, 2016.
Passed by the House March 2, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 67

[Senate Bill 6475]

PUBLIC EMPLOYEES' BENEFITS BOARD HEALTH CARE PROGRAM--POLITICAL SUBDIVISION PARTICIPATION

AN ACT Relating to political subdivisions purchasing health coverage through the public employees' benefits board program; amending RCW 41.04.205 and 41.05.050; and reenacting and amending RCW 41.05.011.

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

Sec. 1. RCW 41.04.205 and 1995 1st sp.s. c 6 s 8 are each amended to read as follows:

(1) Notwithstanding the provisions of RCW 41.04.180, the employees, with their dependents, of any county, municipality, or other political subdivision of this state shall be eligible to participate in any insurance or self-insurance program for employees administered under chapter 41.05 RCW if the legislative authority of any such county, municipality, or other political subdivisions of this state determines, subject to collective bargaining under applicable statutes, a transfer to an insurance or self-insurance program administered under chapter 41.05 RCW should be made. In the event of a special district employee transfer pursuant to this section, members of the governing authority shall be eligible to be included in such transfer if such members are authorized by law as of June 25, 1976 to participate in the insurance program being transferred from and subject to payment by such members of all costs of insurance for members.

(2) When the legislative authority of a county, municipality, or other political subdivision determines to so transfer, the state health care authority shall:

(a) Establish the conditions for participation; and

(b) Have the sole right to reject the application, except a group application from a county or other political subdivision of the state with fewer than five thousand employees must be approved.

Approval of the application by the state health care authority shall effect a transfer of the employees involved to the insurance, self-insurance, or health care program applied for.

(3) Any application of this section to members of the law enforcement officers' and firefighters' retirement system under chapter 41.26 RCW is subject to chapter 41.56 RCW.

(4) School districts may voluntarily transfer, except that all eligible employees in a bargaining unit of a school district may transfer only as a unit and all nonrepresented employees in a district may transfer only as a unit.

Sec. 2. RCW 41.05.011 and 2015 c 116 s 2 are each reenacted and amended to read as follows:

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

(1) "Authority" means the Washington state health care authority.

(2) "Board" means the public employees' benefits board established under RCW 41.05.055.

(3) "Dependent care assistance program" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the internal revenue code.

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

(5) "Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(6) "Employee" includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state ((~~seeks and receives the approval of~~)) submits application materials to the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW

41.05.021(1) (f) and (g); (e) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (g) and (n); and (f) employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

(7) "Employer" means the state of Washington.

(8) "Employer group" means those counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, school districts, and educational service districts, and employee organizations representing state civil service employees, obtaining employee benefits through a contractual agreement with the authority.

(9) "Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; charter school; and a tribal government covered by this chapter.

(10) "Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

(11) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(12) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(13) "Medical flexible spending arrangement" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(14) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the salary reduction plan.

(15) "Plan year" means the time period established by the authority.

(16) "Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(17) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district, educational service district, or charter school on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district, educational service district, or charter school due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(18) "Salary" means a state employee's monthly salary or wages.

(19) "Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, medical flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(20) "Seasonal employee" means an employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

(21) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(17) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000; or

(c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(33), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(22) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(23) "Tribal government" means an Indian tribal government as defined in section 3(32) of the employee retirement income security act of 1974, as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

Sec. 3. RCW 41.05.050 and 2009 c 537 s 5 are each amended to read as follows:

(1) Every: (a) Department, division, or separate agency of state government; (b) county, municipal, school district, educational service district, or other political subdivisions; and (c) tribal governments as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the authority. Contributions, paid by the county, the municipality, other political subdivision, or a tribal government for their employees, shall include an amount determined by the authority to pay such administrative expenses of the authority as are necessary to administer the plans for employees of those groups, except as provided in subsection (4) of this section.

(2) ((~~If the authority at any time determines that the participation of a county, municipal, other political subdivision, or a tribal government covered under this chapter adversely impacts insurance rates for state employees, the authority shall implement limitations on the participation of additional county, municipal, other political subdivisions, or a tribal government~~)) To account for increased cost of benefits for the state and for state employees, the authority may develop a rate surcharge applicable to participating counties, municipalities, other political subdivisions, and tribal governments.

(3) The contributions of any: (a) Department, division, or separate agency of the state government; (b) county, municipal, or other political subdivisions; and (c) any tribal government as are covered by this chapter, shall be set by the authority, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(4)(a) The authority shall collect from each participating school district and educational service district an amount equal to the composite rate charged to state agencies, plus an amount equal to the employee premiums by plan and family size as would be charged to state employees, for groups of district employees enrolled in authority plans. The authority may collect these amounts in accordance with the district fiscal year, as described in RCW 28A.505.030.

(b) For all groups of district employees enrolling in authority plans for the first time after September 1, 2003, the authority shall collect from each participating school district an amount equal to the composite rate charged to state agencies, plus an amount equal to the employee premiums by plan and by family size as would be charged to state employees, only if the authority determines that this method of billing the districts will not result in a material difference between revenues from districts and expenditures made by the authority on behalf of districts and their employees. The authority may collect these amounts in accordance with the district fiscal year, as described in RCW 28A.505.030.

(c) If the authority determines at any time that the conditions in (b) of this subsection cannot be met, the authority shall offer enrollment to additional groups of district employees on a tiered rate structure until such time as the authority determines there would be no material difference between revenues and expenditures under a composite rate structure for all district employees enrolled in authority plans.

(d) The authority may charge districts a one-time set-up fee for employee groups enrolling in authority plans for the first time.

(e) For the purposes of this subsection:

(i) "District" means school district and educational service district; and

(ii) "Tiered rates" means the amounts the authority must pay to insuring entities by plan and by family size.

(f) Notwithstanding this subsection and RCW 41.05.065(4), the authority may allow districts enrolled on a tiered rate structure prior to September 1, 2002, to continue participation based on the same rate structure and under the same conditions and eligibility criteria.

(5) The authority shall transmit a recommendation for the amount of the employer contribution to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature.

Passed by the Senate February 16, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 68

[Substitute Senate Bill 6519]

TELEMEDICINE--PATIENT ACCESS AND COLLABORATIVE FOR ADVANCEMENT

AN ACT Relating to expanding patient access to health services through telemedicine and establishing a collaborative for the advancement of telemedicine; amending RCW 48.43.735, 41.05.700, 74.09.325, and 70.41.230; creating new sections; and providing an effective date.

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

NEW SECTION. **Sec. 1.** The legislature recognizes telemedicine will play an increasingly important role in the health care system. Telemedicine is a meaningful and efficient way to treat patients and control costs while improving access to care. The expansion of the use of telemedicine should be thoughtfully and systematically considered in Washington state in order to maximize its application and expand access to care. Therefore, it is the intent of the legislature to broaden the reimbursement opportunities for health care services and establish a collaborative for the advancement of telemedicine to provide guidance, research, and recommendations for the benefit of professionals providing care through telemedicine.

NEW SECTION. **Sec. 2.** (1) The collaborative for the advancement of telemedicine is created to enhance the understanding and use of health services provided through telemedicine and other similar models in Washington state. The collaborative shall be hosted by the University of Washington telehealth services and shall be comprised of one member from each of the two largest caucuses of the senate and the house of representatives, and representatives from the academic community, hospitals, clinics, and health care providers in primary care and specialty practices, carriers, and other interested parties.

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

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

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

(5) The future of the collaborative shall be reviewed by the legislature with consideration of ongoing technical assistance needs and opportunities. The collaborative terminates December 31, 2018.

Sec. 3. RCW 48.43.735 and 2015 c 23 s 3 are each amended to read as follows:

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

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

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

(c) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, ((~~2017~~)) 2015; and

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

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

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

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

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

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

(e) Community mental health center;

(f) Skilled nursing facility; ((~~or~~))

(g) Home; or

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

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

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

(6) A health carrier may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all

terms and conditions of the plan in which the covered person is enrolled, including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

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

(a) An originating site for professional fees;

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

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

(8) For purposes of this section:

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

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

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

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

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

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

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

Sec. 4. RCW 41.05.700 and 2015 c 23 s 2 are each amended to read as follows:

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

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

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

(c) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, ((~~2017~~)) 2015; and

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

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

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

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

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

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

(e) Community mental health center;

(f) Skilled nursing facility; ((~~or~~))

(g) Home; or

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

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

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

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

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

(a) An originating site for professional fees;

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

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

((~~(9)[(8)]~~)) (8) For purposes of this section:

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

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

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

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

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

(f) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and

management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

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

Sec. 5. RCW 74.09.325 and 2015 c 23 s 4 are each amended to read as follows:

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

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

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

(c) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, ((~~2017~~)) 2015; and

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

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

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

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

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

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

(e) Community mental health center;

(f) Skilled nursing facility; ((~~or~~))

(g) Home; or

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

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

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

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

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

(a) An originating site for professional fees;

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

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

(8) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

Sec. 6. RCW 70.41.230 and 2015 c 23 s 6 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, prior to granting or renewing clinical privileges or association of any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from the physician and the physician shall provide the following information:

(a) The name of any hospital or facility with or at which the physician had or has any association, employment, privileges, or practice during the prior five years: PROVIDED, That the hospital may request additional information going back further than five years, and the physician shall use his or her best efforts to comply with such a request for additional information;

(b) Whether the physician has ever been or is in the process of being denied, revoked, terminated, suspended, restricted, reduced, limited, sanctioned, placed on probation, monitored, or not renewed for any professional activity listed in (b)(i) through (x) of this subsection, or has ever voluntarily or involuntarily relinquished, withdrawn, or failed to proceed with an application for any professional activity listed in (b)(i) through (x) of this subsection in order to avoid an adverse action or to preclude an investigation or while under investigation relating to professional competence or conduct:

(i) License to practice any profession in any jurisdiction;

(ii) Other professional registration or certification in any jurisdiction;

(iii) Specialty or subspecialty board certification;

(iv) Membership on any hospital medical staff;

(v) Clinical privileges at any facility, including hospitals, ambulatory surgical centers, or skilled nursing facilities;

(vi) Medicare, medicaid, the food and drug administration, the national institute of health (office of human research protection), governmental, national, or international regulatory agency, or any public program;

(vii) Professional society membership or fellowship;

(viii) Participation or membership in a health maintenance organization, preferred provider organization, independent practice association, physician-hospital organization, or other entity;

(ix) Academic appointment;

(x) Authority to prescribe controlled substances (drug enforcement agency or other authority);

(c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the physician deems appropriate;

(d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the physician deems appropriate;

(e) A waiver by the physician of any confidentiality provisions concerning the information required to be provided to hospitals pursuant to this subsection; and

(f) A verification by the physician that the information provided by the physician is accurate and complete.

(2) Except as provided in subsection (3) of this section, prior to granting privileges or association to any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from any hospital with or at which the physician had or has privileges, was associated, or was employed, during the preceding five years, the following information concerning the physician:

(a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and

(c) Any information required to be reported by hospitals pursuant to RCW 18.71.0195.

(3) In lieu of the requirements of subsections (1) and (2) of this section, when granting or renewing privileges or association of any physician providing telemedicine or store and forward services, an originating site hospital may rely on a distant site hospital's decision to grant or renew clinical privileges or association of the physician if the originating site hospital obtains reasonable assurances, through a written agreement with the distant site hospital, that all of the following provisions are met:

(a) The distant site hospital providing the telemedicine or store and forward services is a medicare participating hospital;

(b) Any physician providing telemedicine or store and forward services at the distant site hospital will be fully privileged to provide such services by the distant site hospital;

(c) Any physician providing telemedicine or store and forward services will hold and maintain a valid license to perform such services issued or recognized by the state of Washington; and

(d) With respect to any distant site physician who holds current privileges at the originating site hospital whose patients are receiving the telemedicine or store and forward services, the originating site hospital has evidence of an internal review of the distant site physician's performance of these privileges and sends the distant site hospital such performance information for use in the periodic appraisal of the distant site physician. At a minimum, this information must include all adverse events, as defined in RCW 70.56.010, that result from the telemedicine or store and forward services provided by the distant site physician to the originating site hospital's patients and all complaints the originating site hospital has received about the distant site physician.

(4) The medical quality assurance commission or the board of osteopathic medicine and surgery shall be advised within thirty days of the name of any physician denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(5) A hospital or facility that receives a request for information from another hospital or facility pursuant to subsections (1) through (3) of this section shall provide such information concerning the physician in question to the extent such information is known to the hospital or facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital or facility. A hospital, facility, or other person

providing such information in good faith is not liable in any civil action for the release of such information.

(6) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(7) Hospitals shall be granted access to information held by the medical quality assurance commission and the board of osteopathic medicine and surgery pertinent to decisions of the hospital regarding credentialing and recredentialing of practitioners.

(8) Violation of this section shall not be considered negligence per se.

NEW SECTION. **Sec. 7.** Sections 3 through 5 of this act take effect January 1, 2018.

Passed by the Senate February 16, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 69

[Engrossed Second Substitute Senate Bill 6601]

COLLEGE SAVINGS PROGRAM--CREATION

AN ACT Relating to creating the Washington college savings program; amending RCW 28B.95.010, 28B.95.020, 28B.95.025, 28B.95.030, 28B.95.035, 28B.95.040, 28B.95.080, 28B.95.090, 28B.95.100, 28B.95.150, 28B.95.900, 43.33A.135, and 43.33A.190; reenacting and amending RCW 43.79A.040; adding new sections to chapter 28B.95 RCW; and creating a new section.

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

Sec. 1. RCW 28B.95.010 and 1997 c 289 s 1 are each amended to read as follows:

(1) The Washington advanced college tuition payment program is established to help make higher education affordable and accessible to all citizens of the state of Washington by offering a savings incentive that will protect purchasers and beneficiaries against rising tuition costs. ((~~The program is~~))

(2) Subject to the availability of amounts appropriated for this specific purpose, the Washington college savings program is established to provide an additional financial option for individuals, organizations, and families to save for college.

(3) These programs are designed to encourage savings and enhance the ability of Washington citizens to obtain financial access to institutions of higher education. In addition, the programs encourage((~~s~~)) elementary and secondary school students to do well in school as a means of preparing for and aspiring to higher education attendance. ((~~This program is~~)) These programs are intended to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state of Washington.

Sec. 2. RCW 28B.95.020 and 2015 3rd sp.s. c 36 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) "Academic year" means the regular nine-month, three-quarter, or two-semester period annually occurring between August 1st and July 31st.

(2) "Account" means the Washington advanced college tuition payment program account established for the deposit of all money received by the office from eligible purchasers and interest earnings on investments of funds in the account, as well as for all expenditures on behalf of eligible beneficiaries for the redemption of tuition units and for the development of any authorized college savings program pursuant to RCW 28B.95.150.

(3) "Advisor sold" means a channel through which a broker dealer, investment advisor, or other financial intermediary recommends the Washington college savings program established pursuant to RCW 28B.95.010 to eligible investors and assists with the opening and servicing of individual college savings program accounts.

(4) "College savings program account" means the Washington college savings program account established pursuant to RCW 28B.95.010.

(5) "Committee on advanced tuition payment and college savings" or "committee" means a committee of the following members: The state treasurer, the director of the office of financial management, the director of the office, or their designees, and two members to be appointed by the governor, one representing program participants and one private business representative with marketing, public relations, or financial expertise.

(((~~(4)~~))) (6) "Contractual obligation" means a legally binding contract of the state with the purchaser and the beneficiary establishing that purchases of tuition units in the advanced college tuition payment program will be worth the same number of tuition units at the time of redemption as they were worth at the time of the purchase, except as provided in RCW 28B.95.030(7).

((~~(5)~~)) (7) "Dual credit fees" means any fees charged to a student for participation in college in the high school under RCW 28A.600.290 or running start under RCW 28A.600.310.

((~~(6)~~)) (8) "Eligible beneficiary" means the person ((~~for whom the tuition unit will be redeemed for attendance at an institution of higher education, participation in college in the high school under RCW 28A.600.290, or participation in running start under RCW 28A.600.310. The beneficiary is that person named by the purchaser at the time that a tuition unit contract is accepted by the governing body~~)) designated as the individual whose education expenses are to be paid from the advanced college tuition payment program or the college savings program. Qualified organizations, as allowed under section 529 of the federal internal revenue code, purchasing tuition unit contracts as future scholarships need not designate a beneficiary at the time of purchase.

((~~(7)~~)) (9) "Eligible contributor" means an individual or organization that contributes money for the purchase of tuition units, and for an individual college savings program account established pursuant to this chapter for an eligible beneficiary.

(10) "Eligible purchaser" means an individual or organization that has entered into a tuition unit contract with the governing body for the purchase of tuition units in the advanced college tuition payment program for an eligible beneficiary, or that has entered into a participant college savings program account contract for an eligible beneficiary. The state of Washington may be an eligible purchaser for purposes of purchasing tuition units to be held for granting Washington college bound scholarships.

((~~(8)~~)) (11) "Full-time tuition charges" means resident tuition charges at a state institution of higher education for enrollments between ten credits and eighteen credit hours per academic term.

((~~(9)~~)) (12) "Governing body" means the committee empowered by the legislature to administer the Washington advanced college tuition payment program and the Washington college savings program.

((~~(10)~~)) (13) "Individual college savings program account" means the formal record of transactions relating to a Washington college savings program beneficiary.

(14) "Institution of higher education" means an institution that offers education beyond the secondary level and is recognized by the internal revenue service under chapter 529 of the internal revenue code.

((~~(11)~~)) (15) "Investment board" means the state investment board as defined in chapter 43.33A RCW.

((~~(12)~~)) (16) "Investment manager" means the state investment board, another state, or any other entity as selected by the governing body, including another college savings plan established pursuant to section 529 of the internal revenue code.

(17) "Office" means the office of student financial assistance as defined in chapter 28B.76 RCW.

((~~(13)~~)) (18) "Owner" means the eligible purchaser or the purchaser's successor in interest who shall have the exclusive authority to make decisions with respect to the tuition unit contract or the individual college savings program contract. The owner has exclusive authority and responsibility to establish and

change the asset investment options for a beneficiaries' individual college savings program account.

(19) "Participant college savings program account contract" means a contract to participate in the Washington college savings program between an eligible purchaser and the office.

(20) "State institution of higher education" means institutions of higher education as defined in RCW 28B.10.016.

(((~~(14)~~))) (21) "Tuition and fees" means undergraduate tuition and services and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded to the nearest whole dollar. For purposes of this chapter, services and activities fees do not include fees charged for the payment of bonds heretofore or hereafter issued for, or other indebtedness incurred to pay, all or part of the cost of acquiring, constructing, or installing any lands, buildings, or facilities.

(((~~(15)~~))) (22) "Tuition unit contract" means a contract between an eligible purchaser and the governing body, or a successor agency appointed for administration of this chapter, for the purchase of tuition units in the advanced college tuition payment program for a specified beneficiary that may be redeemed at a later date for an equal number of tuition units, except as provided in RCW 28B.95.030(7).

(((~~(16)~~))) (23) "Unit purchase price" means the minimum cost to purchase one tuition unit in the advanced college tuition payment program for an eligible beneficiary. Generally, the minimum purchase price is one percent of the undergraduate tuition and fees for the current year, rounded to the nearest whole dollar, adjusted for the costs of administration and adjusted to ensure the actuarial soundness of the account. The analysis for price setting shall also include, but not be limited to consideration of past and projected patterns of tuition increases, program liability, past and projected investment returns, and the need for a prudent stabilization reserve.

Sec. 3. RCW 28B.95.025 and 2011 1st sp.s. c 11 s 169 are each amended to read as follows:

The office shall maintain appropriate offices and employ and fix compensation of such personnel as may be necessary to perform the advanced college tuition payment program and the Washington college savings program duties. The office shall consult with the governing body on the selection, compensation, and other issues relating to the employment of the program director. The positions are exempt from classified service under chapter 41.06 RCW. The employees shall be employees of the office.

Sec. 4. RCW 28B.95.030 and 2015 3rd sp.s. c 36 s 7 are each amended to read as follows:

(1) The Washington advanced college tuition payment program shall be administered by the committee on advanced tuition payment which shall be chaired by the director of the office. The committee shall be supported by staff of the office.

(2)(a) The Washington advanced college tuition payment program shall consist of the sale of tuition units, which may be redeemed by the beneficiary at a future date for an equal number of tuition units regardless of any increase in the price of tuition, that may have occurred in the interval, except as provided in subsection (7) of this section.

(b) Each purchase shall be worth a specific number of or fraction of tuition units at each state institution of higher education as determined by the governing body, except as provided in subsection (7) of this section.

(c) The number of tuition units necessary to pay for a full year's, full-time undergraduate tuition and fee charges at a state institution of higher education shall be set by the governing body at the time a purchaser enters into a tuition unit contract, except as provided in subsection (7) of this section.

(d) The governing body may limit the number of tuition units purchased by any one purchaser or on behalf of any one beneficiary, however, no limit may be imposed that is less than that necessary to achieve four years of full-time, undergraduate tuition charges at a state institution of higher education. The governing body also may, at its discretion, limit the number of participants, if needed, to ensure the actuarial soundness and integrity of the program.

(e) While the Washington advanced college tuition payment program is designed to help all citizens of the state of Washington, the governing body may determine residency requirements for eligible purchasers and eligible beneficiaries to ensure the actuarial soundness and integrity of the program.

(3)(a) No tuition unit may be redeemed until two years after the purchase of the unit.

(b) Units may be redeemed for enrollment at any institution of higher education that is recognized by the internal revenue service under chapter 529 of the internal revenue code. Units may also be redeemed to pay for dual credit fees.

(c) Units redeemed at a nonstate institution of higher education or for graduate enrollment shall be redeemed at the rate for state public institutions in effect at the time of redemption.

(4) The governing body shall determine the conditions under which the tuition benefit may be transferred to another family member. In permitting such transfers, the governing body may not allow the tuition benefit to be bought, sold, bartered, or otherwise exchanged for goods and services by either the beneficiary or the purchaser.

(5) The governing body shall administer the Washington advanced college tuition payment program in a manner reasonably designed to be actuarially sound, such that the assets of the trust will be sufficient to defray the obligations of the trust including the costs of administration. The governing body may, at its discretion, discount the minimum purchase price for certain kinds of purchases such as those from families with young children, as long as the actuarial soundness of the account is not jeopardized.

(6) The governing body shall annually determine current value of a tuition unit.

(7) For the 2015-16 and 2016-17 academic years only, the governing body shall set the payout value for units redeemed during that academic year only at one hundred seventeen dollars and eighty-two cents per unit. For academic years after the 2016-17 academic year, the governing body shall make program adjustments it deems necessary and appropriate to ensure that the total payout value of each account on October 9, 2015, is not decreased or diluted as a result of the initial application of any changes in tuition under section 3, chapter 36, Laws of 2015 3rd sp. sess. In the event the committee or governing body provides additional units under chapter 36, Laws of 2015 3rd sp. sess., the

committee and governing body shall also increase the maximum number of units that can be redeemed in any year to mitigate the reduction in available account value during any year as a result of chapter 36, Laws of 2015 3rd sp. sess. The governing body must notify holders of tuition units after the adjustment in this subsection is made and must include a statement concerning the adjustment.

(8) The governing body shall promote, advertise, and publicize the Washington advanced college tuition payment program. Materials and online publications advertising the Washington advanced college tuition payment program shall include a disclaimer that the Washington advanced college tuition payment program's guarantee is that one hundred tuition units will equal one year of full-time, resident, undergraduate tuition at the most expensive state institution of higher education, and that if resident, undergraduate tuition is reduced, a tuition unit may lose monetary value.

(9) In addition to any other powers conferred by this chapter, the governing body may:

(a) Impose reasonable limits on the number of tuition units or units that may be used in any one year;

(b) Determine and set any time limits, if necessary, for the use of benefits under this chapter;

(c) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(d) Appoint and use advisory committees and the state actuary as needed to provide program direction and guidance;

(e) Formulate and adopt all other policies and rules necessary for the efficient administration of the program;

(f) Consider the addition of an advanced payment program for room and board contracts and also consider a college savings program;

(g) Purchase insurance from insurers licensed to do business in the state, to provide for coverage against any loss in connection with the account's property, assets, or activities or to further insure the value of the tuition units;

(h) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of its powers and duties under this chapter;

(i) Contract for the provision for all or part of the services necessary for the management and operation of the program with other state or nonstate entities authorized to do business in the state;

(j) Contract for other services or for goods needed by the governing body in the conduct of its business under this chapter;

(k) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(l) Solicit and accept cash donations and grants from any person, governmental agency, private business, or organization; and

(m) Perform all acts necessary and proper to carry out the duties and responsibilities of this program under this chapter.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28B.95 RCW to read as follows:

(1) The Washington college savings program shall be administered by the committee, which shall be chaired by the director of the office. The committee shall be supported by staff of the office.

(2) The Washington college savings program shall consist of the college savings program account and the individual college savings program accounts, and shall allow an eligible purchaser to establish an individual college savings program account for an eligible beneficiary whereby the money in the account may be invested and used for enrollment at any institution of higher education that is recognized by the internal revenue service under chapter 529 of the internal revenue code. Money in the account may also be used to pay for dual credit fees.

(3) The Washington college savings program is open to eligible purchasers and eligible beneficiaries who are residents or nonresidents of Washington state.

(4) The Washington college savings program shall not require eligible purchasers to make an initial minimum contribution in any amount that exceeds twenty-five dollars when establishing a new account.

(5) The committee may contract with other state or nonstate entities that are authorized to do business in the state for the investment of moneys in the college savings program, including other college savings plans established pursuant to section 529 of the internal revenue code. The investment of eligible contributors' deposits may be in credit unions, savings and loan associations, banks, mutual savings banks, purchase life insurance, shares of an investment company, individual securities, fixed annuity contracts, variable annuity contracts, any insurance company, other 529 plans, or any investment company licensed to contract business in this state.

(6) The governing body shall determine the conditions under which control or the beneficiary of an individual college savings program account may be transferred to another family member. In permitting such transfers, the governing body may not allow the individual college savings program account to be bought, sold, bartered, or otherwise exchanged for goods and services by either the beneficiary or the purchaser.

(7) The governing body shall promote, advertise, and publicize the Washington college savings program.

(8) The governing body shall develop materials to educate potential account owners and beneficiaries on (a) the differences between the advanced college tuition payment program and the Washington college savings program, and (b) how the two programs can complement each other to save towards the full cost of attending college.

(9) In addition to any other powers conferred by this chapter, the governing body may:

(a) Impose limits on the amount of contributions that may be made on behalf of any eligible beneficiary;

(b) Determine and set age limits and any time limits for the use of benefits under this chapter;

(c) Establish incentives to encourage participation in the Washington college savings program to include but not be limited to entering into agreements with any public or private employer under which an employee may agree to have a designated amount deducted in each payroll period from the wages due the employee for the purpose of making contributions to a participant college savings program account;

(d) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(e) Appoint and use advisory committees and the state actuary as needed to provide program direction and guidance;

(f) Formulate and adopt all other policies and rules necessary for the efficient administration of the program;

(g) Purchase insurance from insurers licensed to do business in the state, to provide for coverage against any loss in connection with the account's property, assets, or activities;

(h) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of its powers and duties under this chapter;

(i) Contract for the provision for all or part of the services necessary for the management and operation of the Washington college savings program with other state or nonstate entities authorized to do business in the state for the investment of moneys;

(j) Contract for other services or for goods needed by the governing body in the conduct of its business under this chapter;

(k) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(l) Review advisor sold 529 college savings plan programs used by other states to supplement direct-sold channels, provide additional program access and options, increase overall college savings by residents, and if deemed appropriate, establish an advisor sold option for the Washington college savings program;

(m) Solicit and accept gifts, bequests, cash donations, and grants from any person, governmental agency, private business, or organization; and

(n) Perform all acts necessary and proper to carry out the duties and responsibilities of the Washington college savings program under this chapter.

(10) It is the intent of the legislature to establish policy goals for the Washington college savings program. The policy goals established under this section are deemed consistent with creating a nationally competitive 529 savings plan. The Washington college savings program should support achievement of these policy goals:

(a) Process: To have an investment manager design a thoughtful, well-diversified glide path for age-based portfolios and offer a robust suite of investment options;

(b) People: To have a well-resourced, talented, and long-tenured investment manager;

(c) Parent: To demonstrate that the committee is a good caretaker of college savers' capital and can manage the plan professionally;

(d) Performance: To demonstrate that the program's options have earned their keep with solid risk-adjusted returns over relevant time periods; and

(e) Price: To demonstrate that the investment options are a good value.

(11) The powers, duties, and functions of the Washington college savings program must be performed in a manner consistent with the policy goals in subsection (10) of this section.

(12) The policy goals in this section are intended to be the basis for establishing detailed and measurable objectives and related performance measures.

(13) It is the intent of the legislature that the committee establish objectives and performance measures for the investment manager to progress toward the

attainment of the policy goals in subsection (10) of this section. The committee shall submit objectives and performance measures to the legislature for its review and shall provide an updated report on the objectives and measures before the regular session of the legislature during even-numbered years thereafter.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28B.95 RCW to read as follows:

(1) The committee shall create an expedited process by which owners can complete a direct rollover of a 529 account from (a) a state-sponsored prepaid tuition plan to a state-sponsored college savings plan, (b) a state-sponsored college savings plan to a state-sponsored prepaid tuition plan, or (c) a state-sponsored prepaid tuition plan or a state-sponsored college savings plan to an out-of-state eligible 529 plan.

(2) The committee shall report annually to the governor and the appropriate committees of the legislature on (a) the number of accounts that have been rolled into the Washington college savings program from out of state and (b) the number of accounts rolled out of the Washington college savings program to 529 plans into other states.

Sec. 7. RCW 28B.95.035 and 1998 c 69 s 3 are each amended to read as follows:

No member of the committee is liable for the negligence, default, or failure of any other person or members of the committee to perform the duties of office and no member may be considered or held to be an insurer of the funds or assets of any of the advanced college tuition payment program or any of the Washington college savings program.

Sec. 8. RCW 28B.95.040 and 2011 1st sp.s. c 11 s 171 are each amended to read as follows:

The governing body may, at its discretion, allow an organization to purchase tuition units or establish savings plans for future use as scholarships. Such organizations electing to purchase tuition units or establish Washington college savings program accounts for this purpose must enter into a contract with the governing body which, at a minimum, ensures that the scholarship shall be freely given by the purchaser to a scholarship recipient. For such purchases, the purchaser need not name a beneficiary until four months before the date when the tuition units are first expected to be used.

The governing body shall formulate and adopt such rules as are necessary to determine which organizations may qualify to purchase tuition units or establish Washington college savings program accounts for scholarships under this section. The governing body also may consider additional rules for the use of tuition units or Washington college savings program accounts if purchased as scholarships.

The governing body may establish a scholarship fund with moneys from the Washington advanced college tuition payment program account. A scholarship fund established under this authority shall be administered by the office and shall be provided to students who demonstrate financial need. Financial need is not a criterion that any other organization need consider when using tuition units as scholarships. The office also may establish its own corporate-sponsored scholarship fund under this chapter.

NEW SECTION. **Sec. 9.** A new section is added to chapter 28B.95 RCW to read as follows:

(1) The Washington college savings program account is created in the custody of the state treasurer. The account shall be a discrete nontreasury account retaining its interest earnings in accordance with RCW 43.79A.040.

(2) The governing body shall deposit in the account all moneys received for the program. The account shall be self-sustaining and consist of payments received for the purposes of college savings for the beneficiary. With the exception of investment and operating costs associated with the investment of money by a nonstate entity or paid under RCW 43.08.190, 43.33A.160, and 43.84.160, the account shall be credited with all investment income earned by the account. Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. Money used for program administration is subject to the allotment of all expenditures. However, an appropriation is not required for such expenditures. Program administration includes, but is not limited to: The salaries and expenses of the Washington college savings program personnel including lease payments, travel, and goods and services necessary for program operation; contracts for Washington college savings program promotion and advertisement, audits, and account management; and other general costs of conducting the business of the Washington college savings program.

(3) The account is authorized to maintain a cash deficit in the account for a period no more than five fiscal years to defray its initial program administration costs. By December 31, 2017, the governing body shall establish a program administration spending plan and a fee schedule to discharge any projected cash deficit to the account. The legislature may make appropriations into the account for the purpose of reducing program administration costs.

(4) The assets of the account may be spent without appropriation for the purpose of making payments to institutions of higher education on behalf of the qualified beneficiaries, making refunds, transfers, or direct payments upon the termination of the Washington college savings program. Disbursements from the account shall be made only on the authorization of the governing body.

(5) With regard to the assets of the account, the state acts in a fiduciary, not ownership, capacity. Therefore the assets of the program are not considered state money, common cash, or revenue to the state.

Sec. 10. RCW 28B.95.080 and 2011 1st sp.s. c 12 s 3 are each amended to read as follows:

The governing body shall annually evaluate, and cause to be evaluated by the state actuary, the soundness of the advanced college tuition payment program account and determine the additional assets needed, if any, to defray the obligations of the account. The governing body may, at its discretion, consult with a nationally recognized actuary for periodic assessments of the account.

If funds are determined by the governing body, based on actuarial analysis to be insufficient to ensure the actuarial soundness of the account, the governing body shall adjust the price of subsequent tuition credit purchases to ensure its soundness.

If there are insufficient numbers of new purchases to ensure the actuarial soundness of the account, the governing body shall request such funds from the legislature as are required to ensure the integrity of the program. Funds may be

appropriated directly to the account or appropriated under the condition that they be repaid at a later date. The repayment shall be made at such time that the account is again determined to be actuarially sound.

NEW SECTION. **Sec. 11.** A new section is added to chapter 28B.95 RCW to read as follows:

The governing body shall begin and continue to accept applications for new tuition unit contracts and authorize the sale of new tuition units by July 1, 2017. Upon reopening the advanced college tuition payment program, in any year in which the total annual sale of tuition units is below five hundred thousand, the governing body shall determine how to reinvigorate the advanced college tuition payment program to incentivize Washingtonians to enter into tuition unit contracts and purchase tuition units.

Sec. 12. RCW 28B.95.090 and 2005 c 272 s 3 are each amended to read as follows:

(1) In the event that the ((~~state~~)) legislature determines that the advanced college tuition payment program is not financially feasible, or for any other reason, the ((~~state~~)) legislature may declare the discontinuance of the program. At the time of such declaration, the governing body will cease to accept any further tuition unit contracts or purchases.

(2) The remaining tuition units for all beneficiaries who have either enrolled in higher education or who are within four years of graduation from a secondary school shall be honored until such tuition units have been exhausted, or for ten fiscal years from the date that the program has been discontinued, whichever comes first. All other contract holders shall receive a refund equal to the value of the current tuition units in effect at the time that the program was declared discontinued.

(3) At the end of the ten-year period, any tuition units remaining unused by currently active beneficiaries enrolled in higher education shall be refunded at the value of the current tuition unit in effect at the end of that ten-year period.

(4) At the end of the ten-year period, all other funds remaining in the account not needed to make refunds or to pay for administrative costs shall be deposited to the state general fund.

(5) The governing body may make refunds under other exceptional circumstances as it deems fit, however, no tuition units may be honored after the end of the tenth fiscal year following the declaration of discontinuance of the program.

NEW SECTION. **Sec. 13.** A new section is added to chapter 28B.95 RCW to read as follows:

(1) The investment manager has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the Washington college savings program without limitation as to the amount pursuant to RCW 43.84.150 and 43.33A.140. All investment and operating costs associated with the investment of money must be paid to the investment manager as allowed by RCW 43.33A.160 and 43.84.160. With the exception of these expenses and the administrative costs authorized in sections 5 and 9 of this act, one hundred percent of all earnings from investments accrue directly to the owner of the individual college savings program account.

(2) The governing body may allow owners to self-direct the investment of moneys in individual college savings program accounts through the selection of investment options. The governing body may provide plans that it deems are in the interests of the owners and beneficiaries.

(a) The investment manager, after consultation with the governing body, shall provide a set of options for owners to choose from for investment of individual college savings program account contributions, including an age-based investment option.

(b) The investment manager has the full authority to invest moneys pursuant to the investment directions of the owner of a self-directed individual college savings program account.

(3) Annually on each December 1st, the committee shall report to the governor and the appropriate committees of the legislature regarding the total fees charged to each investment option offered in the Washington college savings program. It is the intent of the legislature that fees charged to the owner not exceed one-half of one percent for any investment option on an annual basis. Beginning January 1, 2018, fees charged to the owner may not exceed one-half of one percent for any investment option on an annual basis.

(4) In the next succeeding legislative session following receipt of a report required under subsection (3) of this section, the appropriate committees of the legislature shall review the report and consider whether any legislative action is necessary with respect to the investment option with fees that exceed one-half of one percent, including but not limited to consideration of whether any legislative action is necessary with respect to reducing the fees and expenses associated with the underlying investment option. With the exception of fees associated with the administration of the program authorized in sections 5 and 9 of this act, all moneys in the college savings program account, all property and rights purchased with the account, and all income attributable to the account, shall be held in trust for the exclusive benefit of the owners and their eligible beneficiaries.

(5) All investments made by the investment manager shall be made with the exercise of that degree of judgment and care expressed in chapter 43.33A RCW.

(6) As deemed appropriate by the investment manager, money in the Washington college savings program account may be commingled for investment with other funds subject to investment by the investment manager.

(7) The authority to establish all policies relating to the Washington college savings program and the Washington college savings program account, other than investment policies resides with the governing body. With the exception of expenses of the investment manager as provided in subsection (1) of this section, disbursements from the Washington college savings program account shall be made only on the authorization of the governing body or its designee, and moneys in the account may be spent only for the purposes of the Washington college savings program as specified in this chapter.

(8) The investment manager shall routinely consult and communicate with the governing body on the investment policy, earnings of the trust, and related needs of the Washington college savings program.

Sec. 14. RCW 28B.95.100 and 2000 c 14 s 7 are each amended to read as follows:

(1) The governing body, in planning and devising the advanced college tuition payment program and the Washington college savings program, shall consult with the investment board, the state treasurer, the office of financial management, and the institutions of higher education.

(2) The governing body may seek the assistance of the state agencies named in subsection (1) of this section, private financial institutions, and any other qualified party with experience in the areas of accounting, actuary, risk management, or investment management to assist with preparing an accounting of the programs and ensuring the fiscal soundness of the advanced college tuition payment program account and the Washington college savings program account.

(3) State agencies and public institutions of higher education shall fully cooperate with the governing body in matters relating to the programs in order to ensure the solvency of the advanced college tuition payment account and the Washington college savings program account and ability of the governing body to meet outstanding commitments.

NEW SECTION. **Sec. 15.** A new section is added to chapter 28B.95 RCW to read as follows:

The intent of the Washington college savings program is to make distributions from individual college savings program accounts for beneficiaries' attendance at public or private institutions of higher education. Federal penalties and taxes associated with 529 savings plan refunds may apply to any refund issued by the Washington college savings plan. Refunds shall be issued under specific conditions that may include the following:

(1) Certification that the beneficiary, who is eighteen years of age or older, will not attend a public or private institution of higher education, will result in a refund not to exceed the current value at the time of such certification. The refund shall be made no sooner than ninety days after such certification, less any administrative processing fees assessed by the governing body;

(2) If there is certification of the death or disability of the beneficiary, the refund shall be equal to one hundred percent of the current value at the time that such certification is submitted to the governing body, less any administrative processing fees assessed by the governing body;

(3) If there is certification by the student of graduation or program completion, the refund shall be as great as one hundred percent of the current value at the time that such certification is submitted to the governing body, less any administrative processing fees assessed by the governing body. The governing body may, at its discretion, impose a penalty if needed to comply with federal tax rules;

(4) If there is certification of other tuition and fee scholarships that will cover the cost of tuition for the eligible beneficiary, the refund may not exceed the value of the scholarship or scholarships, less any administrative processing fees assessed by the governing body;

(5) Incorrect or misleading information provided by the purchaser or beneficiaries may result in a refund of the purchaser's and contributors' contributions, less any administrative processing fees assessed by the governing body. The value of the refund must not exceed the actual dollar value of the purchaser's or contributors' contributions; and

(6) The governing body may determine other circumstances qualifying for refunds of remaining unused participant Washington college savings program account balances and may determine the value of that refund.

NEW SECTION. **Sec. 16.** A new section is added to chapter 28B.95 RCW to read as follows:

With regard to bankruptcy filings and enforcement of judgments under Title 6 RCW, participant Washington college savings program account deposits made more than two years before the date of filing or judgment are considered excluded personal assets.

Sec. 17. RCW 28B.95.150 and 2012 c 198 s 16 are each amended to read as follows:

(1) The committee may establish a college savings program. If such a program is established, the college savings program shall be established, in such form as may be determined by the committee, to be a qualified state tuition program as defined by the internal revenue service under section 529 of the internal revenue code, and shall be administered in a manner consistent with the Washington advanced college tuition payment program. The committee, in planning and devising the program, shall consult with the state investment board, the state treasurer, the state actuary, the legislative fiscal and higher education committees, and the institutions of higher education. The governing body may, at its discretion, consult with a qualified actuarial consulting firm with appropriate expertise to evaluate such plans for periodic assessments of the program.

(2) Up to two hundred thousand dollars of administrative fees collected from guaranteed education tuition program participants may be applied as a loan to fund the development and start-up of a college savings program. This loan must be repaid with interest before the conclusion of the biennium following the biennium in which the committee draws funds for this purpose from the advanced college tuition payment program account.

(3) The committee, after consultation with the state investment board or other contracted investment manager, shall determine the investment policies for the college savings program. Program contributions may be invested by the state investment board, in which case it and not the committee shall determine the investment policies for the college savings program, or the committee may contract with an investment company licensed to conduct business in this state to do the investing. The committee shall keep or cause to be kept full and adequate accounts and records of the assets of each individual participant in the college savings program.

(4)(a) The governing body may elect to have the state investment board serve as investment manager for the funds in the college savings program. Members of the state investment board and its officers and employees are not considered an insurer of the funds or assets and are not liable for any action or inaction.

(b) Members of the state investment board and its officers and employees are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The state investment board in its discretion may purchase liability insurance for members.

(c) If selected by the governing body to be the investment manager, the state investment board retains all authority to establish all investment policies relating to the investment of college savings program moneys.

(d) The state investment board shall routinely consult and communicate with the committee on the investment policy, earnings of the accounts, and related needs of the college savings program.

(5) The owner has exclusive authority and responsibility to establish and change the asset allocation for an individual participant college savings program account.

(6) Neither the state nor any eligible educational institution may be considered or held to be an insurer of the funds or assets of the individual participant accounts in the college savings program created under this section nor may any such entity be held liable for any shortage of funds in the event that balances in the individual participant accounts are insufficient to meet the educational expenses of the institution chosen by the student for which the individual participant account was intended.

((~~(5)~~)) (7) The committee shall adopt rules to implement this section. Such rules shall include but not be limited to administration, investment management, recordkeeping, promotion, and marketing; compliance with internal revenue service standards and applicable securities regulations; application procedures and fees; start-up costs; phasing in the savings program and withdrawals therefrom; deterrents to early withdrawals and provisions for hardship withdrawals; and reenrollment in the savings program after withdrawal.

((~~(6)~~)) (8) The committee may, at its discretion, determine to cease operation of the college savings program if it determines the continuation is not in the best interest of the state. The committee shall adopt rules to implement this section addressing the orderly distribution of assets.

Sec. 18. RCW 28B.95.900 and 1997 c 289 s 11 are each amended to read as follows:

This chapter shall not be construed as a promise that any beneficiary shall be granted admission to any institution of higher education, will earn any specific or minimum number of academic credits, or will graduate from any such institution. In addition, this chapter shall not be construed as a promise of either course or program availability.

Participation in ((~~this~~)) the advanced college tuition payment program or the Washington college savings program does not guarantee an eligible beneficiary the right to resident tuition and fees. To qualify for resident and respective tuition subsidies, the eligible beneficiary must meet the applicable provisions of RCW 28B.15.011 through 28B.15.015.

This chapter shall not be construed to imply that the redemption of tuition units in the advanced college tuition payment program shall be equal to any value greater than the undergraduate tuition and services and activities fees at a state institution of higher education as computed under this chapter. Eligible beneficiaries will be responsible for payment of any other fee that does not qualify as a services and activities fee including, but not limited to, any expenses for tuition surcharges, tuition overload fees, laboratory fees, equipment fees, book fees, rental fees, room and board charges, or fines.

Sec. 19. RCW 43.33A.135 and 2010 1st sp.s. c 7 s 36 are each amended to read as follows:

The state investment board has the full power to establish investment policy, develop participant investment options, and manage investment funds for the college savings program, if the committee on advanced tuition payment and college savings selects the state investment board as the investment manager pursuant to section 5 of this act, and for the state deferred compensation plan, consistent with the provisions of RCW 41.50.770 and 41.50.780. The board may continue to offer the investment options provided as of June 11, 1998, until the board establishes a deferred compensation plan investment policy and adopts new investment options after considering the recommendations of the department of retirement systems.

Sec. 20. RCW 43.33A.190 and 2000 c 247 s 701 are each amended to read as follows:

((~~Pursuant to RCW 41.34.130,~~)) The state investment board shall invest all self-directed investment moneys under teachers' retirement system plan 3, the school employees' retirement system plan 3, and the public employees' retirement system plan 3 pursuant to RCW 41.34.130 and under the college savings program, if the committee on advanced tuition payment and college savings selects the state investment board as the investment manager pursuant to section 5 of this act, with full power to establish investment policy, develop investment options, and manage self-directed investment funds.

Sec. 21. RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the community and technical college innovation account, the agricultural local fund, the American

Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 22.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2016, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 8, 2016.

Passed by the House March 3, 2016.

Approved by the Governor March 29, 2016.

Filed in Office of Secretary of State March 30, 2016.

CHAPTER 70

[House Bill 2403]

DOWN SYNDROME--RESOURCES FOR PARENTS

AN ACT Relating to Down syndrome resources; adding a new section to chapter 43.70 RCW; adding a new section to chapter 18.50 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.57A RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.71A RCW; adding a new section to chapter 18.79 RCW; adding a new section to chapter 18.290 RCW; adding a new section to chapter 70.41 RCW; and adding a new section to chapter 18.46 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.70 RCW to read as follows:

(1)(a) The department shall develop the following resources regarding Down syndrome:

(i) Up-to-date, evidence-based, written information about Down syndrome and people born with Down syndrome that has been reviewed by medical experts and national Down syndrome organizations; and

(ii) Contact information regarding support services, including information hotlines specific to Down syndrome, resource centers or clearinghouses, national and local Down syndrome organizations, and other education and support programs.

(b) The resources prepared by the department must:

(i) Be culturally and linguistically appropriate for expectant parents receiving a positive prenatal diagnosis or for the parents of a child receiving a postnatal diagnosis of Down syndrome; and

(ii) Include: Physical, developmental, educational, and psychosocial outcomes; life expectancy; clinical course; and intellectual and functional development and therapy options.

(2) The department shall make the information described in this section available to any person who renders prenatal care, postnatal care, or genetic counseling to expectant parents receiving a positive prenatal diagnosis or to the parents of a child receiving a postnatal diagnosis of Down syndrome.

(3) For the purposes of this section, "Down syndrome" means a chromosomal condition that results in the presence of an extra whole or partial copy of chromosome 21.

NEW SECTION. **Sec. 2.** A new section is added to chapter 18.50 RCW to read as follows:

A midwife who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under section 1 of this act at the time the midwife provides the parent with the Down syndrome diagnosis.

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.57 RCW to read as follows:

An osteopathic physician and surgeon licensed under this chapter who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the

department under section 1 of this act at the time the physician provides the parent with the Down syndrome diagnosis.

NEW SECTION. **Sec. 4.** A new section is added to chapter 18.57A RCW to read as follows:

An osteopathic physician's assistant who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under section 1 of this act at the time the osteopathic physician's assistant provides the parent with the Down syndrome diagnosis.

NEW SECTION. **Sec. 5.** A new section is added to chapter 18.71 RCW to read as follows:

A physician licensed under this chapter who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under section 1 of this act at the time the physician provides the parent with the Down syndrome diagnosis.

NEW SECTION. **Sec. 6.** A new section is added to chapter 18.71A RCW to read as follows:

A physician assistant who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under section 1 of this act at the time the physician assistant provides the parent with the Down syndrome diagnosis.

NEW SECTION. **Sec. 7.** A new section is added to chapter 18.79 RCW to read as follows:

A nurse who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under section 1 of this act at the time the nurse provides the parent with the Down syndrome diagnosis.

NEW SECTION. **Sec. 8.** A new section is added to chapter 18.290 RCW to read as follows:

A genetic counselor who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under section 1 of this act at the time the genetic counselor provides the parent with the Down syndrome diagnosis.

NEW SECTION. **Sec. 9.** A new section is added to chapter 70.41 RCW to read as follows:

A hospital that provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under section 1 of this act at the time the hospital provides the parent with the Down syndrome diagnosis.

NEW SECTION. **Sec. 10.** A new section is added to chapter 18.46 RCW to read as follows:

A birthing center that provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under section 1 of this act at the time the birthing center provides the parent with the Down syndrome diagnosis.

Passed by the House February 17, 2016.

Passed by the Senate March 2, 2016.
Approved by the Governor March 29, 2016.
Filed in Office of Secretary of State March 30, 2016.

CHAPTER 71

[Fourth Substitute House Bill 1999]

FOSTER YOUTH--EDUCATIONAL OUTCOMES--COORDINATION OF SERVICES AND PROGRAMS

AN ACT Relating to coordinating services and programs for foster youth in order to improve educational outcomes; amending RCW 28B.117.060; reenacting and amending RCW 13.50.010; adding new sections to chapter 28A.300 RCW; adding a new section to chapter 74.13 RCW; adding a new section to chapter 28B.77 RCW; creating a new section; recodifying RCW 28B.117.060; and repealing RCW 74.13.105.

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

NEW SECTION. **Sec. 1.** The Washington state legislature has long acknowledged that youth impacted by the foster care system experience among the worst high school graduation and postsecondary completion outcomes compared to any other population of youth. Over the last decade, legislative leadership has sparked innovation and development of an array of services to improve educational outcomes. The legislature intends to powerfully leverage that past experience to establish a set of comprehensive strategies that are evidence-based, more coordinated, intensive, and intentional in order to proactively support youth to complete high school and successfully implement their own plans for their future.

The goals of this effort are threefold:

(1) To make Washington number one in the nation for foster care graduation rates;

(2) To make Washington number one in the nation for foster care enrollment in postsecondary education; and

(3) To make Washington number one in the nation for foster care postsecondary completion.

Sec. 2. RCW 13.50.010 and 2015 c 265 s 2 and 2015 c 262 s 1 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;

(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;

(d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

(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.

(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.

(15) For purposes of providing for the educational success of youth in foster care, the department of social and health services may disclose only those confidential child welfare records that pertain to or may assist with meeting the educational needs of foster youth to another state agency or state agency's contracted provider responsible under state law or contract for assisting foster youth to attain educational success. The records retain their confidentiality pursuant to this chapter and federal law and cannot be further disclosed except as allowed under this chapter and federal law.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) As used in this section, "outcome" or "outcomes" means measuring the differences in high school graduation rates and postsecondary enrollment between youth served by the education coordination program described in this section and those who would have otherwise been eligible for the program, but were not served by the program.

(2) To the extent funds are appropriated for this purpose, the department of social and health services must contract with the office of the superintendent of public instruction, which in turn must contract with at least one nongovernmental entity to administer a program of education coordination for youth, kindergarten through twelfth grade, who are dependent pursuant to chapter 13.34 RCW. The office of the superintendent of public instruction shall, in consultation with the department of social and health services, comply with all requirements necessary to maximize federal reimbursement for the program of education coordination for youth. The contract between the office of the superintendent of public instruction and the nongovernmental entity must be outcome driven with a stated goal of reducing educational barriers to youth success. The selected nongovernmental entity or entities must engage in a public-private partnership with the office of the superintendent of public instruction and are responsible for raising a portion of the funds needed for service delivery, administration, and evaluation.

(3) The nongovernmental entity or entities selected by the office of the superintendent of public instruction must have demonstrated success in working with foster care youth and assisting foster care youth in receiving appropriate educational services, including enrollment, accessing school-based services, reducing out-of-school discipline interventions, and attaining high school graduation.

(4) The selected nongovernmental entity or entities must provide services to support individual youth upon a referral by a social worker with the department of social and health services, school staff, or a nongovernmental agency. The selected nongovernmental entity or entities may be colocated in the offices of the department of social and health services to provide timely consultation and in-service training. These entities must have access to all paper and electronic education records and case information pertinent to the educational planning and services of youth referred and are subject to RCW 13.50.010 and 13.50.100.

(5) The selected nongovernmental entity or entities must report outcomes semiannually to the office of the superintendent of public instruction and the department of social and health services beginning December 1, 2016.

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

(1) As used in this section, "outcome" or "outcomes" means measuring the differences in high school graduation rates and postsecondary enrollment and completion between youth served by the programs described in this section, and those who would have otherwise been eligible for the programs, but were not served by the programs.

(2) To the extent funds are appropriated for this purpose, the office of the superintendent of public instruction must contract with at least one nongovernmental entity to improve the educational outcomes of students at two sites by providing individualized education services and monitoring and supporting dependent youths' completion of educational milestones, remediation

needs, and special education needs. The selected nongovernmental entity must engage in a public-private partnership with the office of the superintendent of public instruction and is responsible for raising a portion of the funds needed for service delivery, administration, and evaluation.

(3) One of the sites described in subsection (2) of this section shall be the site previously selected by the department of social and health services pursuant to the 2013-2015 omnibus appropriations act, section 202(10), chapter 4, Laws of 2013 2nd sp. sess. to the extent private funds are available. The previously selected site will expand to include the entire county in which it is currently located, subject to the availability of private funds. The second site established under this section must be implemented after July 1, 2016. The office of the superintendent of public instruction and the nongovernmental entity or entities at the original site shall consult with the department of social and health services and then collaboratively select the second site. This site should be a school district or group of school districts with a significant number of students who are dependent pursuant to chapter 13.34 RCW.

(4) The purpose of the programs at both sites is to improve the educational outcomes of students who are dependent pursuant to chapter 13.34 RCW by providing individualized education services and supporting dependent youths' completion of educational milestones, remediation needs, and special education needs.

(5) The entity or entities at these sites must facilitate the educational progress, high school completion, and postsecondary plan initiation of eligible youth. The contract with the entity or entities must be outcome driven with a stated goal of improving the graduation rates and postsecondary plan initiation of foster youth by two percent per year over five school year periods. The baseline for measurement for the existing site was established in the 2013-14 school year, and this baseline remains applicable through the 2018-19 school year. Any new site must establish its baseline at the end of the first year of service provision, and this baseline must remain applicable for the next five school year periods.

(6) Services provided by the nongovernmental entity or entities must include:

(a) Advocacy for foster youth to eliminate barriers to educational access and success;

(b) Consultation with schools and the department of social and health services' case workers to develop educational plans for and with participating youth;

(c) Monitoring education progress and providing interventions to improve attendance, behavior, and course performance of participating youth;

(d) Facilitating age-specific developmental and logistical tasks to be accomplished for high school and postsecondary success;

(e) Facilitating the participation of youth with school and local resources that may assist in educational access and success; and

(f) Coordinating youth, caregivers, schools, and social workers to advocate to support youth progress in the educational system.

(7) The contracted nongovernmental entity or entities must report site outcomes to the office of the superintendent of public instruction and the department of social and health services semiannually.

(8) The department of social and health services children's administration must proactively refer all eligible students thirteen years of age or older, within the site areas, to the contractor for educational services. Youth eligible for referral are dependent pursuant to chapter 13.34 RCW, are age thirteen through twenty-one years of age, are not currently served by services under RCW 28B.117.060 (as recodified by this act), and remain eligible for continuing service following fulfillment of the permanent plan and through initiation of a postsecondary plan. After high school completion, services are concluded within a time period specified in the contract to pursue engagement of continuing postsecondary support services provided by local education agencies, postsecondary education, community-based programs, or the passport to college promise program.

(9) The selected nongovernmental entity or entities may be colocated in the offices of the department of social and health services to provide timely consultation. These entities must be provided access to all paper and electronic education records and case information pertinent to the educational planning and services of youth referred and are subject to RCW 13.50.010 and 13.50.100.

Sec. 5. RCW 28B.117.060 and 2011 1st sp.s. c 11 s 224 are each amended to read as follows:

(1) To the extent funds are appropriated for this purpose, the ((~~department of social and health services~~)) council, with input from the ((~~state board for community and technical colleges, the office, and institutions of higher education~~)) office of the superintendent of public instruction and the department of social and health services, shall contract with at least one nongovernmental entity ((~~through a request for proposals process~~)) to develop, implement, and administer a program of supplemental educational transition planning for youth in foster care in Washington state.

(2) The nongovernmental entity or entities chosen by the ((~~department~~)) council shall have demonstrated success in working with foster care youth and assisting foster care youth in successfully making the transition from ((~~foster care to independent adulthood~~)) high school to a postsecondary plan, including postsecondary enrollment, career, or service.

(3) The selected nongovernmental entity or entities shall provide supplemental educational transition planning to foster care youth in Washington state ((~~beginning at age fourteen and then at least every six months thereafter~~)). Youth eligible for referral are not currently served by programs under section 4 of this act, dependent pursuant to chapter 13.34 RCW, age thirteen through twenty-one, and remain eligible for continuing service following fulfillment of the permanent plan and through initiation of a postsecondary plan. After high school completion, services are concluded within a time period specified in the contract to pursue engagement of continuing postsecondary support services provided by local education agencies, postsecondary education, community-based programs, or the passport to college promise program. The nongovernmental entity or entities must facilitate the educational progress, graduation, and postsecondary plan initiation of eligible youth. The contract must be outcome driven with a stated goal of improving the graduation rates and postsecondary plan initiation of eligible youth by two percent per year over five school year periods starting with the 2016-17 school year and ending with the

2021-22 school year. With each new contract, a baseline must be established at the end of the first year of service provision.

(4) The supplemental transition planning shall include:

(a) ((~~Comprehensive information regarding postsecondary educational opportunities including, but not limited to, sources of financial aid, institutional characteristics and record of support for former foster care youth, transportation, housing, and other logistical considerations;~~

~~(b) How and when to apply to postsecondary educational programs;~~

~~(c) What precollege tests, if any, the particular foster care youth should take based on his or her postsecondary plans and when to take the tests;~~

~~(d) What courses to take to prepare the particular foster care youth to succeed at his or her postsecondary plans;~~

~~(e) Social, community, educational, logistical, and other issues that frequently impact college students and their success rates; and~~

~~(f) Which web sites, nongovernmental entities, public agencies, and other foster care youth support providers specialize in which services~~)) Consultation with schools and the department of social and health services' case workers to develop educational plans for and with participating youth;

(b) Age-specific developmental and logistical tasks to be accomplished for high school and postsecondary success;

(c) Facilitating youth participation with appropriate school and local resources that may assist in educational access and success; and

(d) Coordinating youth, caregivers, schools, and social workers to support youth progress in the educational system.

(((~~(4)~~))) (5) The selected nongovernmental entity or entities ((~~shall work directly with the school counselors at the foster care youths' high schools to ensure that a consistent and complete transition plan has been prepared for each foster care youth who emancipates out of the foster care system in Washington state~~)) may be colocated in the offices of the department of social and health services to provide timely consultation. These entities must have access to all paper and electronic education records and case information pertinent to the educational planning and services of youth referred and are subject to RCW 13.50.010 and 13.50.100.

(6) The contracted nongovernmental entity or entities must report outcomes to the council and the department of social and health services semiannually beginning on December 1, 2016.

NEW SECTION. **Sec. 6.** A new section is added to chapter 74.13 RCW to read as follows:

(1) In order to proactively support foster youth to complete high school, enroll and complete postsecondary education, and successfully implement their own plans for their futures, the department, the student achievement council, and the office of the superintendent of public instruction shall enter into, or revise existing, memoranda of understanding that:

(a) Facilitate student referral, data and information exchange, agency roles and responsibilities, and cooperation and collaboration among state agencies and nongovernmental entities; and

(b) Effectuate the transfer of responsibilities from the department of social and health services to the office of the superintendent of public instruction with respect to the programs in section 4 of this act, and from the department of social

and health services to the student achievement council with respect to the program in RCW 28B.117.060 (as recodified by this act) in a smooth, expedient, and coordinated fashion.

(2) The student achievement council and the office of the superintendent of public instruction shall establish a set of indicators relating to the outcomes provided in sections 3 and 4 of this act to provide consistent services for youth, facilitate transitions among contractors, and support outcome-driven contracts. The student achievement council and the superintendent of public instruction shall collaborate with nongovernmental contractors and the department to develop a list of the most critical indicators, establishing a common set of indicators to be used in the outcome-driven contracts in sections 3 and 4 of this act. A list of these indicators must be included in the report provided in subsection (3) of this section.

(3) By November 1, 2017, and biannually thereafter, the department, the student achievement council, and the office of the superintendent of public instruction, in consultation with the nongovernmental entities engaged in public-private partnerships shall submit a joint report to the governor and the appropriate education and human services committees of the legislature regarding each of these programs, individually, as well as the collective progress the state has made toward the following goals:

(a) To make Washington number one in the nation for foster care graduation rates;

(b) To make Washington number one in the nation for foster care enrollment in postsecondary education; and

(c) To make Washington number one in the nation for foster care postsecondary completion.

(4) The department, the student achievement council, and the office of the superintendent of public instruction, in consultation with the nongovernmental entities engaged in public-private partnerships, shall also submit one report by November 1, 2018, to the governor and the appropriate education and human service committees of the legislature regarding the transfer of responsibilities from the department of social and health services to the office of the superintendent of public instruction with respect to the programs in section 4 of this act, and from the department of social and health services to the student achievement council with respect to the program in RCW 28B.117.060 (as recodified by this act) and whether these transfers have resulted in better coordinated services for youth.

NEW SECTION. **Sec. 7.** RCW 74.13.105 (Program of education coordination for dependent youth—Public-private partnership—Selection—Report) and 2012 c 163 s 6 are each repealed.

NEW SECTION. **Sec. 8.** RCW 28B.117.060 is recodified as a section in chapter 28B.77 RCW.

Passed by the House February 12, 2016.

Passed by the Senate March 1, 2016.

Approved by the Governor March 30, 2016.

Filed in Office of Secretary of State March 31, 2016.

CHAPTER 72

[Fourth Substitute House Bill 1541]

EDUCATION--OPPORTUNITIES AND OUTCOMES

AN ACT Relating to implementing strategies to close the educational opportunity gap, based on the recommendations of the educational opportunity gap oversight and accountability committee; amending RCW 28A.600.490, 28A.600.015, 28A.600.020, 28A.600.022, 43.41.400, 28A.405.106, 28A.405.120, 28A.180.040, 28A.180.090, 28A.300.042, 28A.300.505, 28A.300.507, 28A.165.035, and 28A.300.130; reenacting and amending RCW 13.50.010; adding a new section to chapter 28A.320 RCW; adding new sections to chapter 28A.345 RCW; adding new sections to chapter 28A.415 RCW; adding new sections to chapter 28A.657 RCW; adding a new section to chapter 43.215 RCW; adding a new section to chapter 28A.300 RCW; creating new sections; and providing expiration dates.

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

NEW SECTION. **Sec. 1.** (1) The legislature has already established that it is a goal of the state to provide for a public school system that gives all students the opportunity to achieve personal and academic success. This goal contains within it a promise of excellence and opportunity for all students, not just some students. In 2012, in *McCleary v. State of Washington*, the Washington supreme court reaffirmed the positive constitutional right of every student by noting, "No child is excluded." In establishing the educational opportunity gap oversight and accountability committee in 2009, the legislature recognized that additional work was needed to fulfill the promise of excellence and opportunity for students of certain demographic groups, including English language learners.

(2) In its 2015 report to the legislature, the educational opportunity gap oversight and accountability committee made the following recommendations in keeping with its statutory purpose, which is to recommend specific policies and strategies to close the educational opportunity gap:

(a) Reduce the length of time students of color are excluded from school due to suspension and expulsion and provide students support for reengagement plans;

(b) Enhance the cultural competence of current and future educators and classified staff;

(c) Endorse all educators in English language learner and second language acquisition;

(d) Account for the transitional bilingual instruction program instructional services provided to English language learner students;

(e) Analyze the opportunity gap through deeper disaggregation of student demographic data;

(f) Invest in the recruitment, hiring, and retention of educators of color;

(g) Incorporate integrated student services and family engagement; and

(h) Strengthen student transitions at each stage of the education development pathway: Early learning to elementary, elementary to secondary, secondary to college and career.

(3) The legislature finds that these recommendations represent a holistic approach to making progress toward closing the opportunity gap. The recommendations are interdependent and mutually reinforcing. Closing the opportunity gap requires highly skilled, culturally competent, and diverse educators who understand the communities and cultures that students come from; it requires careful monitoring of not only the academic performance but also the educational environment for all students, at a fine grain of detail to

assure adequate accountability; and it requires a robust program of instruction, including appropriately trained educators, to help English language learners gain language proficiency as well as academic proficiency.

(4) Therefore, the legislature intends to adopt policies and programs to implement the six recommendations of the educational opportunity gap oversight and accountability committee and fulfill its promise of excellence and opportunity for all students.

PART I
DISPROPORTIONALITY IN STUDENT DISCIPLINE

Sec. 101. RCW 28A.600.490 and 2013 2nd sp.s. c 18 s 301 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall convene a discipline task force to develop standard definitions for causes of student disciplinary actions taken at the discretion of the school district. The task force must also develop data collection standards for disciplinary actions that are discretionary and for disciplinary actions that result in the exclusion of a student from school. The data collection standards must include data about education services provided while a student is subject to a disciplinary action, the status of petitions for readmission to the school district when a student has been excluded from school, credit retrieval during a period of exclusion, and school dropout as a result of disciplinary action.

(2) The discipline task force shall include representatives from the K-12 data governance group, the educational opportunity gap oversight and accountability committee, the state ethnic commissions, the governor's office of Indian affairs, the office of the education ((~~ombudsman [ombuds]~~)) ombuds, school districts, tribal representatives, and other education and advocacy organizations.

(3) The office of the superintendent of public instruction and the K-12 data governance group shall revise the statewide student data system to incorporate the student discipline data collection standards recommended by the discipline task force, and begin collecting data based on the revised standards in the 2015-16 school year.

NEW SECTION. **Sec. 102.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) School districts shall annually disseminate discipline policies and procedures to students, families, and the community.

(2) School districts shall use disaggregated data collected pursuant to RCW 28A.300.042 to monitor the impact of the school district's discipline policies and procedures.

(3) School districts, in consultation with school district staff, students, families, and the community, shall periodically review and update their discipline rules, policies, and procedures.

NEW SECTION. **Sec. 103.** A new section is added to chapter 28A.345 RCW to read as follows:

(1) The Washington state school directors' association shall create model school district discipline policies and procedures and post these models publicly by December 1, 2016. In developing these model policies and procedures, the association shall request technical assistance and guidance from the equity and

civil rights office within the office of the superintendent of public instruction and the Washington state human rights commission. The model policies and procedures shall be updated as necessary.

(2) School districts shall adopt and enforce discipline policies and procedures consistent with the model policy by the beginning of the 2017-18 school year.

NEW SECTION. **Sec. 104.** A new section is added to chapter 28A.415 RCW to read as follows:

(1) The office of the superintendent of public instruction, subject to the availability of amounts appropriated for this specific purpose, shall develop a training program to support the implementation of discipline policies and procedures under chapter 28A.600 RCW.

(2) School districts are strongly encouraged to provide the trainings to all school and district staff interacting with students, including instructional staff and noninstructional staff, as well as within a reasonable time following any substantive change to school discipline policies or procedures.

(3) To the maximum extent feasible, the trainings must incorporate or adapt existing online training or curriculum, including securing materials or curriculum under contract or purchase agreements within available funds.

(4) The trainings must be developed in modules that allow:

(a) Access to material over a reasonable number of training sessions;

(b) Delivery in person or online; and

(c) Use in a self-directed manner.

Sec. 105. RCW 28A.600.015 and 2013 2nd sp.s. c 18 s 302 are each amended to read as follows:

(1) The superintendent of public instruction shall adopt and distribute to all school districts lawful and reasonable rules prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules shall authorize a school district to use informal due process procedures in connection with the short-term suspension of students to the extent constitutionally permissible: PROVIDED, That the superintendent of public instruction deems the interest of students to be adequately protected. When a student suspension or expulsion is appealed, the rules shall authorize a school district to impose the suspension or expulsion temporarily after an initial hearing for no more than ten consecutive school days or until the appeal is decided, whichever is earlier. Any days that the student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student suspension or expulsion and shall not limit or extend the term of the student suspension or expulsion. An expulsion or suspension of a student may not be for an indefinite period of time.

(2) Short-term suspension procedures may be used for suspensions of students up to and including, ten consecutive school days.

(3) Emergency expulsions must end or be converted to another form of corrective action within ten school days from the date of the emergency removal from school. Notice and due process rights must be provided when an emergency expulsion is converted to another form of corrective action.

(4) School districts may not impose long-term suspension or expulsion as a form of discretionary discipline.

(5) Any imposition of discretionary and nondiscretionary discipline is subject to the bar on suspending the provision of educational services pursuant to subsection (8) of this section.

(6) As used in this chapter, "discretionary discipline" means a disciplinary action taken by a school district for student behavior that violates rules of student conduct adopted by a school district board of directors under RCW 28A.600.010 and this section, but does not constitute action taken in response to any of the following:

(a) A violation of RCW 28A.600.420;

(b) An offense in RCW 13.04.155;

(c) Two or more violations of RCW 9A.46.120, 9.41.280, 28A.600.455, 28A.635.020, or 28A.635.060 within a three-year period; or

(d) Behavior that adversely impacts the health or safety of other students or educational staff.

(7) Except as provided in RCW 28A.600.420, school districts are not required to impose long-term suspension or expulsion for behavior that constitutes a violation or offense listed under subsection (6)(a) through (d) of this section and should first consider alternative actions.

(8) School districts may not suspend the provision of educational services to a student as a disciplinary action. A student may be excluded from a particular classroom or instructional or activity area for the period of suspension or expulsion, but the school district must provide an opportunity for a student to receive educational services during a period of suspension or expulsion.

(9) Nothing in this section creates any civil liability for school districts, or creates a new cause of action or new theory of negligence against a school district board of directors, a school district, or the state.

Sec. 106. RCW 28A.600.020 and 2013 2nd sp.s. c 18 s 303 are each amended to read as follows:

(1) The rules adopted pursuant to RCW 28A.600.010 shall be interpreted to ensure that the optimum learning atmosphere of the classroom is maintained, and that the highest consideration is given to the judgment of qualified certificated educators regarding conditions necessary to maintain the optimum learning atmosphere.

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day, or up to the following two days, or until the principal or designee and teacher have conferred, whichever occurs first. Except in emergency circumstances, the teacher first must attempt one or more alternative forms of corrective action. In no event without the consent of the teacher may an excluded student return to the class during the balance of that class or activity period or up to the following two days, or until the principal or his or her designee and the teacher have conferred.

(3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for administering discipline at each school within the district. Such procedures shall be developed with the participation of parents and the community, and shall

provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of student discipline problems. Such procedures shall provide that students may be excluded from their individual classes or activities for periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students. The procedures must be consistent with the rules of the superintendent of public instruction and must provide for early involvement of parents in attempts to improve the student's behavior.

(4) The procedures shall assure, pursuant to RCW 28A.400.110, that all staff work cooperatively toward consistent enforcement of proper student behavior throughout each school as well as within each classroom.

(5)(a) A principal shall consider imposing long-term suspension or expulsion as a sanction when deciding the appropriate disciplinary action for a student who, after July 27, 1997:

(i) Engages in two or more violations within a three-year period of RCW 9A.46.120, ((~~28A.320.135,~~)) 28A.600.455, 28A.600.460, 28A.635.020, 28A.600.020, 28A.635.060, or 9.41.280((~~, or 28A.320.140~~)); or

(ii) Engages in one or more of the offenses listed in RCW 13.04.155.

(b) The principal shall communicate the disciplinary action taken by the principal to the school personnel who referred the student to the principal for disciplinary action.

(6) Any corrective action involving a suspension or expulsion from school for more than ten days must have an end date of not more than ((~~one calendar year~~)) the length of an academic term, as defined by the school board, from the time of corrective action. Districts shall make reasonable efforts to assist students and parents in returning to an educational setting prior to and no later than the end date of the corrective action. Where warranted based on public health or safety, a school may petition the superintendent of the school district, pursuant to policies and procedures adopted by the office of the superintendent of public instruction, for authorization to exceed the ((~~one calendar year~~)) academic term limitation provided in this subsection. The superintendent of public instruction shall adopt rules outlining the limited circumstances in which a school may petition to exceed the ((~~one calendar year~~)) academic term limitation, including safeguards to ensure that the school district has made every effort to plan for the student's return to school. School districts shall report to the office of the superintendent of public instruction the number of petitions made to the school board and the number of petitions granted on an annual basis.

(7) Nothing in this section prevents a public school district, educational service district, the Washington state center for childhood deafness and hearing loss, or the state school for the blind if it has suspended or expelled a student from the student's regular school setting from providing educational services to the student in an alternative setting or modifying the suspension or expulsion on a case-by-case basis. An alternative setting should be comparable, equitable, and appropriate to the regular education services a student would have received without the exclusionary discipline. Example alternative settings include alternative high schools, one-on-one tutoring, and online learning.

Sec. 107. RCW 28A.600.022 and 2013 2nd sp.s. c 18 s 308 are each amended to read as follows:

(1) School districts should make efforts to have suspended or expelled students return to an educational setting as soon as possible. School districts ((~~should~~)) must convene a meeting with the student and the student's parents or guardians within twenty days of the student's long-term suspension or expulsion, but no later than five days before the student's enrollment, to discuss a plan to reengage the student in a school program. Families must have access to, provide meaningful input on, and have the opportunity to participate in a culturally sensitive and culturally responsive reengagement plan.

(2) In developing a reengagement plan, school districts should consider shortening the length of time that the student is suspended or expelled, other forms of corrective action, and supportive interventions that aid in the student's academic success and keep the student engaged and on track to graduate. School districts must create a reengagement plan tailored to the student's individual circumstances, including consideration of the incident that led to the student's long-term suspension or expulsion. The plan should aid the student in taking the necessary steps to remedy the situation that led to the student's suspension or expulsion.

(3) Any reengagement meetings conducted by the school district involving the suspended or expelled student and his or her parents or guardians are not intended to replace a petition for readmission.

Sec. 108. RCW 43.41.400 and 2012 c 229 s 585 are each amended to read as follows:

(1) An education data center shall be established in the office of financial management. The education data center shall jointly, with the legislative evaluation and accountability program committee, conduct collaborative analyses of early learning, K-12, and higher education programs and education issues across the P-20 system, which includes the department of early learning, the superintendent of public instruction, the professional educator standards board, the state board of education, the state board for community and technical colleges, the workforce training and education coordinating board, the student achievement council, public and private nonprofit four-year institutions of higher education, and the employment security department. The education data center shall conduct collaborative analyses under this section with the legislative evaluation and accountability program committee and provide data electronically to the legislative evaluation and accountability program committee, to the extent permitted by state and federal confidentiality requirements. The education data center shall be considered an authorized representative of the state educational agencies in this section under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

(2) The education data center shall:

(a) In consultation with the legislative evaluation and accountability program committee and the agencies and organizations participating in the education data center, identify the critical research and policy questions that are intended to be addressed by the education data center and the data needed to address the questions;

(b) Coordinate with other state education agencies to compile and analyze education data, including data on student demographics that is disaggregated by

distinct ethnic categories within racial subgroups, and complete P-20 research projects;

(c) Collaborate with the legislative evaluation and accountability program committee and the education and fiscal committees of the legislature in identifying the data to be compiled and analyzed to ensure that legislative interests are served;

(d) Annually provide to the K-12 data governance group a list of data elements and data quality improvements that are necessary to answer the research and policy questions identified by the education data center and have been identified by the legislative committees in (c) of this subsection. Within three months of receiving the list, the K-12 data governance group shall develop and transmit to the education data center a feasibility analysis of obtaining or improving the data, including the steps required, estimated time frame, and the financial and other resources that would be required. Based on the analysis, the education data center shall submit, if necessary, a recommendation to the legislature regarding any statutory changes or resources that would be needed to collect or improve the data;

(e) Monitor and evaluate the education data collection systems of the organizations and agencies represented in the education data center ensuring that data systems are flexible, able to adapt to evolving needs for information, and to the extent feasible and necessary, include data that are needed to conduct the analyses and provide answers to the research and policy questions identified in (a) of this subsection;

(f) Track enrollment and outcomes through the public centralized higher education enrollment system;

(g) Assist other state educational agencies' collaborative efforts to develop a long-range enrollment plan for higher education including estimates to meet demographic and workforce needs;

(h) Provide research that focuses on student transitions within and among the early learning, K-12, and higher education sectors in the P-20 system; ((~~and~~))

(i) Prepare a regular report on the educational and workforce outcomes of youth in the juvenile justice system, using data disaggregated by age, and by ethnic categories and racial subgroups in accordance with RCW 28A.300.042; and

(j) Make recommendations to the legislature as necessary to help ensure the goals and objectives of this section and RCW 28A.655.210 and 28A.300.507 are met.

(3) The department of early learning, superintendent of public instruction, professional educator standards board, state board of education, state board for community and technical colleges, workforce training and education coordinating board, student achievement council, public four-year institutions of higher education, department of social and health services and employment security department shall work with the education data center to develop data-sharing and research agreements, consistent with applicable security and confidentiality requirements, to facilitate the work of the center. The education data center shall also develop data-sharing and research agreements with the administrative office of the courts to conduct research on educational and workforce outcomes using data maintained under RCW 13.50.010(12) related to juveniles. Private, nonprofit institutions of higher education that provide

programs of education beyond the high school level leading at least to the baccalaureate degree and are accredited by the Northwest association of schools and colleges or their peer accreditation bodies may also develop data-sharing and research agreements with the education data center, consistent with applicable security and confidentiality requirements. The education data center shall make data from collaborative analyses available to the education agencies and institutions that contribute data to the education data center to the extent allowed by federal and state security and confidentiality requirements applicable to the data of each contributing agency or institution.

Sec. 109. RCW 13.50.010 and 2015 c 265 s 2 and 2015 c 262 s 1 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;

(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;

(d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

(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~~)) administrative office of the courts for research purposes as authorized by the supreme court or by state statute. The ((~~Washington state center for court research~~)) administrative office of the courts shall maintain the confidentiality of all confidential records and shall preserve the anonymity of all persons identified in the research copy. Data contained in the research copy may be shared with other governmental agencies

as authorized by state statute, pursuant to data-sharing and research agreements, and consistent with applicable security and confidentiality requirements. 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.

PART II
EDUCATOR CULTURAL COMPETENCE

NEW SECTION. **Sec. 201.** A new section is added to chapter 28A.345 RCW to read as follows:

The Washington state school directors' association, in consultation with the office of the superintendent of public instruction, the professional educator standards board, the steering committee established in RCW 28A.405.100, and the educational opportunity gap oversight and accountability committee, must develop a plan for the creation and delivery of cultural competency training for school board directors and superintendents. The training program must also include the foundational elements of cultural competence, focusing on multicultural education and principles of English language acquisition, including information regarding best practices to implement the tribal history and culture curriculum. The content of the training must be aligned with the standards for cultural competence developed by the professional educator standards board under RCW 28A.410.270.

Sec. 202. RCW 28A.405.106 and 2012 c 35 s 5 are each amended to read as follows:

(1) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction must develop and make available a professional development program to support the implementation of the evaluation systems required by RCW 28A.405.100. The program components may be organized into professional development modules for principals, administrators, and teachers. The professional development program shall include a comprehensive online training package.

(2) The training program must include, but not be limited to, the following topics:

(a) Introduction of the evaluation criteria for teachers and principals and the four-level rating system;

(b) Orientation to and use of instructional frameworks;

(c) Orientation to and use of the leadership frameworks;

(d) Best practices in developing and using data in the evaluation systems, including multiple measures, student growth data, classroom observations, and other measures and evidence;

(e) Strategies for achieving maximum rater agreement;

(f) Evaluator feedback protocols in the evaluation systems;

(g) Examples of high quality teaching and leadership; and

(h) Methods to link the evaluation process to ongoing educator professional development.

(3) The training program must also include the foundational elements of cultural competence, focusing on multicultural education and principles of English language acquisition, including information regarding best practices to implement the tribal history and culture curriculum. The content of the training must be aligned with the standards for cultural competence developed by the professional educator standards board under RCW 28A.410.270. The office of the superintendent of public instruction, in consultation with the professional educator standards board, the steering committee established in RCW 28A.405.100, and the educational opportunity gap oversight and accountability committee, must integrate the content for cultural competence into the overall training for principals, administrators, and teachers to support the revised evaluation systems.

(4) To the maximum extent feasible, the professional development program must incorporate or adapt existing online training or curriculum, including securing materials or curriculum under contract or purchase agreements within available funds. Multiple modes of instruction should be incorporated including videos of classroom teaching, participatory exercises, and other engaging combinations of online audio, video, and print presentation.

((~~(4)~~)) (5) The professional development program must be developed in modules that allow:

(a) Access to material over a reasonable number of training sessions;

(b) Delivery in person or online; and

(c) Use in a self-directed manner.

((~~(5)~~)) (6) The office of the superintendent of public instruction must maintain a web site that includes the online professional development materials along with sample evaluation forms and templates, links to relevant research on evaluation and on high quality teaching and leadership, samples of contract and collective bargaining language on key topics, examples of multiple measures of teacher and principal performance, suggestions for data to measure student growth, and other tools that will assist school districts in implementing the revised evaluation systems.

((~~(6)~~)) (7) The office of the superintendent of public instruction must identify the number of in-service training hours associated with each professional development module and develop a way for users to document their completion of the training. Documented completion of the training under this section is considered approved in-service training for the purposes of RCW 28A.415.020.

((~~(7)~~)) (8) The office of the superintendent of public instruction shall periodically update the modules to reflect new topics and research on performance evaluation so that the training serves as an ongoing source of continuing education and professional development.

((~~(8)~~)) (9) The office of the superintendent of public instruction shall work with the educational service districts to provide clearinghouse services for the identification and publication of professional development opportunities for teachers and principals that align with performance evaluation criteria.

Sec. 203. RCW 28A.405.120 and 2012 c 35 s 2 are each amended to read as follows:

(1) School districts shall require each administrator, each principal, or other supervisory personnel who has responsibility for evaluating classroom teachers or principals to have training in evaluation procedures.

(2) Before school district implementation of the revised evaluation systems required under RCW 28A.405.100, principals and administrators who have evaluation responsibilities must engage in professional development designed to implement the revised systems and maximize rater agreement. The professional development to support the revised evaluation systems must also include foundational elements of cultural competence, focusing on multicultural education and principles of English language acquisition.

NEW SECTION. **Sec. 204.** A new section is added to chapter 28A.415 RCW to read as follows:

(1) Subject to funds appropriated specifically for this purpose, the office of the superintendent of public instruction, in collaboration with the educational opportunity gap oversight and accountability committee, the professional educator standards board, colleges of education, and representatives from diverse communities and community-based organizations, must develop a content outline for professional development and training in cultural competence for school staff.

(2) The content of the cultural competence professional development and training must be aligned with the standards developed by the professional educator standards board under RCW 28A.410.270. The training program must also include the foundational elements of cultural competence, focusing on multicultural education and principles of English language acquisition, including information regarding best practices to implement the tribal history and culture curriculum.

(3) The cultural competence professional development and training must contain components that are appropriate for classified school staff and district administrators as well as certificated instructional staff and principals at the building level. The professional development and training must also contain components suitable for delivery by individuals from the local community or community-based organizations with appropriate expertise.

(4) The legislature encourages educational service districts and school districts to use the cultural competence professional development and training developed under this section and provide opportunities for all school and school district staff to gain knowledge and skills in cultural competence, including in partnership with their local communities.

NEW SECTION. **Sec. 205.** A new section is added to chapter 28A.657 RCW to read as follows:

Required action districts as provided in RCW 28A.657.030, and districts with schools that receive the federal school improvement grant under the American recovery and reinvestment act of 2009, and districts with schools identified by the superintendent of public instruction as priority or focus are strongly encouraged to provide the cultural competence professional development and training developed under RCW 28A.405.106, 28A.405.120, and section 204 of this act for classified, certificated instructional, and administrative staff of the school. The professional development and training may be delivered by an educational service district, through district in-service, or by another qualified provider, including in partnership with the local community.

PART III
INSTRUCTING ENGLISH LANGUAGE LEARNERS

Sec. 301. RCW 28A.180.040 and 2013 2nd sp.s. c 9 s 4 are each amended to read as follows:

(1) Every school district board of directors shall:

(a) Make available to each eligible pupil transitional bilingual instruction to achieve competency in English, in accord with rules of the superintendent of public instruction;

(b) Wherever feasible, ensure that communications to parents emanating from the schools shall be appropriately bilingual for those parents of pupils in the bilingual instruction program;

(c) Determine, by administration of an English test approved by the superintendent of public instruction the number of eligible pupils enrolled in the school district at the beginning of a school year and thereafter during the year as necessary in individual cases;

(d) Ensure that a student who is a child of a military family in transition and who has been assessed as in need of, or enrolled in, a bilingual instruction program, the receiving school shall initially honor placement of the student into a like program.

(i) The receiving school shall determine whether the district's program is a like program when compared to the sending school's program; and

(ii) The receiving school may conduct subsequent assessments pursuant to RCW 28A.180.090 to determine appropriate placement and continued enrollment in the program;

(e) Before the conclusion of each school year, measure each eligible pupil's improvement in learning the English language by means of a test approved by the superintendent of public instruction;

(f) Provide in-service training for teachers, counselors, and other staff, who are involved in the district's transitional bilingual program. Such training shall include appropriate instructional strategies for children of culturally different backgrounds, use of curriculum materials, and program models; and

(g) Make available a program of instructional support for up to two years immediately after pupils exit from the program, for exited pupils who need assistance in reaching grade-level performance in academic subjects even though they have achieved English proficiency for purposes of the transitional bilingual instructional program.

(2) Beginning in the 2019-20 school year, all classroom teachers assigned using funds for the transitional bilingual instruction program to provide supplemental instruction for eligible pupils must hold an endorsement in bilingual education or English language learner, or both.

(3) The definitions in Article II of RCW 28A.705.010 apply to subsection (1)(d) of this section.

PART IV

ENGLISH LANGUAGE LEARNER ACCOUNTABILITY

Sec. 401. RCW 28A.180.090 and 2001 1st sp.s. c 6 s 2 are each amended to read as follows:

The superintendent of public instruction shall develop an evaluation system designed to measure increases in the English and academic proficiency of eligible pupils. When developing the system, the superintendent shall:

(1) Require school districts to assess potentially eligible pupils within ten days of registration using an English proficiency assessment or assessments as specified by the superintendent of public instruction. Results of these assessments shall be made available to both the superintendent of public instruction and the school district;

(2) Require school districts to annually assess all eligible pupils at the end of the school year using an English proficiency assessment or assessments as specified by the superintendent of public instruction. Results of these assessments shall be made available to both the superintendent of public instruction and the school district;

(3) Develop a system to evaluate increases in the English and academic proficiency of students who are, or were, eligible pupils. This evaluation shall include students when they are in the program and after they exit the program until they finish their K-12 career or transfer from the school district. The purpose of the evaluation system is to inform schools, school districts, parents, and the state of the effectiveness of the transitional bilingual programs in school and school districts in teaching these students English and other content areas, such as mathematics and writing; and

(4) ((~~Report to the education and fiscal committees of the legislature by November 1, 2002, regarding the development of the systems described in this section and a timeline for the full implementation of those systems. The legislature shall approve and provide funding for the evaluation system in subsection (3) of this section before any implementation of the system developed under subsection (3) of this section may occur.~~)) Subject to funds appropriated specifically for this purpose, provide school districts with technical assistance and support in selecting research-based program models, instructional materials, and professional development for program staff, including disseminating information about best practices and innovative programs. The information must include research about the differences between conversational language proficiency, academic language proficiency, and subject-specific language proficiency and the implications this research has on instructional practices and evaluation of program effectiveness.

NEW SECTION. **Sec. 402.** A new section is added to chapter 28A.657 RCW to read as follows:

At the beginning of each school year, the office of the superintendent of public instruction shall identify schools in the top five percent of schools with the highest percent growth during the previous two school years in enrollment of English language learner students as compared to previous enrollment trends. The office shall notify the identified schools, and the school districts in which the schools are located are strongly encouraged to provide the cultural competence professional development and training developed under RCW 28A.405.106, 28A.405.120, and section 204 of this act for classified, certificated instructional, and administrative staff of the schools. The professional development and training may be delivered by an educational service district, through district in-service, or by another qualified provider, including in partnership with the local community.

PART V
DISAGGREGATED STUDENT DATA

Sec. 501. RCW 28A.300.042 and 2013 2nd sp.s. c 18 s 307 are each amended to read as follows:

(1) Beginning with the 2017-18 school year, and using the phase-in provided in subsection (2) of this section, the superintendent of public instruction must collect and school districts must submit all student-level data using 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:

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

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

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

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

(2) Beginning with the 2017-18 school year, school districts shall collect student-level data as provided in subsection (1) of this section for all newly enrolled students, including transfer students. When the students enroll in a different school within the district, school districts shall resurvey the newly enrolled students for whom subracial and subethnic categories were not previously collected. School districts may resurvey other students.

(3) All student data-related reports required of the superintendent of public instruction in this title must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, transitional bilingual, migrant, special education, and students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794).

((~~(2)~~)) (4) All student data-related reports ((~~required of~~)) prepared by the superintendent of public instruction regarding student suspensions and expulsions as required ((~~in RCW 28A.300.046~~)) under this title are subject to disaggregation by subgroups including:

(a) Gender;

(b) Foster care;

(c) Homeless, if known;

(d) School district;
(e) School;
(f) Grade level;
(g) Behavior infraction code, including:
(i) Bullying;
(ii) Tobacco;
(iii) Alcohol;
(iv) Illicit drug;
(v) Fighting without major injury;
(vi) Violence without major injury;
(vii) Violence with major injury;
(viii) Possession of a weapon; and
(ix) Other behavior resulting from a short-term or long-term suspension, expulsion, or interim alternative education setting intervention;
(h) Intervention applied, including:
(i) Short-term suspension;
(ii) Long-term suspension;
(iii) Emergency expulsion;
(iv) Expulsion;
(v) Interim alternative education settings;
(vi) No intervention applied; and
(vii) Other intervention applied that is not described in this subsection ((~~(2)~~)) (4)(h);
(i) Number of days a student is suspended or expelled, to be counted in half or full days; and
(j) Any other categories added at a future date by the data governance group.
((~~(3)~~)) (5) All student data-related reports required of the superintendent of public instruction regarding student suspensions and expulsions as required in RCW 28A.300.046 are subject to cross-tabulation at a minimum by the following:
(a) School and district;
(b) Race, low income, special education, transitional bilingual, migrant, foster care, homeless, students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794), and categories to be added in the future;
(c) Behavior infraction code; and
(d) Intervention applied.
(6) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data as required under this section, and the office of the superintendent of public instruction shall modify the statewide student data system as needed. The office of the superintendent of public instruction shall also incorporate training for school staff on best practices for collection of data on student race and ethnicity in other training or professional development related to data provided by the office.

NEW SECTION. **Sec. 502.** Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall convene a task force to review the United States department of education 2007 race and ethnicity reporting guidelines and develop race and ethnicity guidance for the state. The task force must include representatives from

the educational opportunity gap oversight and accountability committee, the ethnic commissions, the governor's office of Indian affairs, and a diverse group of parents. The guidance must clarify for students and families why information about race and ethnicity is collected and how students and families can help school administrators properly identify them. The guidance must also describe the best practices for school administrators to use when identifying the race and ethnicity of students and families. The task force must use the United States census and the American community survey in the development of the guidance.

Sec. 503. RCW 28A.300.505 and 2015 c 210 s 2 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~~)) as required by RCW 28A.300.042; 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. 504.** (1) To increase the visibility of the opportunity gap in schools with small subgroups of students and to hold schools accountable to individual student-level support, by August 1, 2016, the office of the superintendent of public instruction, in cooperation with the K-12 data governance group established within the office of the superintendent of public instruction, the education data center established within the office of financial management, and the state board of education, shall adopt a rule that the only student data that should not be reported for public reporting and accountability is data where the school or district has fewer than ten students in a grade level or student subgroup.

(2) This section expires August 1, 2017.

PART VI
RECRUITMENT AND RETENTION OF EDUCATORS

Sec. 601. RCW 28A.300.507 and 2009 c 548 s 203 are each amended to read as follows:

(1) A K-12 data governance group shall be established within the office of the superintendent of public instruction to assist in the design and implementation of a K-12 education data improvement system for financial, student, and educator data. It is the intent that the data system reporting specifically serve requirements for teachers, parents, superintendents, school boards, the office of the superintendent of public instruction, the legislature, and the public.

(2) The K-12 data governance group shall include representatives of the education data center, the office of the superintendent of public instruction, the legislative evaluation and accountability program committee, the professional educator standards board, the state board of education, and school district staff, including information technology staff. Additional entities with expertise in education data may be included in the K-12 data governance group.

(3) The K-12 data governance group shall:

(a) Identify the critical research and policy questions that need to be addressed by the K-12 education data improvement system;

(b) Identify reports and other information that should be made available on the internet in addition to the reports identified in subsection (5) of this section;

(c) Create a comprehensive needs requirement document detailing the specific information and technical capacity needed by school districts and the state to meet the legislature's expectations for a comprehensive K-12 education data improvement system as described under RCW 28A.655.210;

(d) Conduct a gap analysis of current and planned information compared to the needs requirement document, including an analysis of the strengths and limitations of an education data system and programs currently used by school districts and the state, and specifically the gap analysis must look at the extent to which the existing data can be transformed into canonical form and where existing software can be used to meet the needs requirement document;

(e) Focus on financial and cost data necessary to support the new K-12 financial models and funding formulas, including any necessary changes to school district budgeting and accounting, and on assuring the capacity to link data across financial, student, and educator systems; and

(f) Define the operating rules and governance structure for K-12 data collections, ensuring that data systems are flexible and able to adapt to evolving

needs for information, within an objective and orderly data governance process for determining when changes are needed and how to implement them. Strong consideration must be made to the current practice and cost of migration to new requirements. The operating rules should delineate the coordination, delegation, and escalation authority for data collection issues, business rules, and performance goals for each K-12 data collection system, including:

(i) Defining and maintaining standards for privacy and confidentiality;

(ii) Setting data collection priorities;

(iii) Defining and updating a standard data dictionary;

(iv) Ensuring data compliance with the data dictionary;

(v) Ensuring data accuracy; and

(vi) Establishing minimum standards for school, student, financial, and teacher data systems. Data elements may be specified "to the extent feasible" or "to the extent available" to collect more and better data sets from districts with more flexible software. Nothing in RCW 43.41.400, this section, or RCW 28A.655.210 should be construed to require that a data dictionary or reporting should be hobbled to the lowest common set. The work of the K-12 data governance group must specify which data are desirable. Districts that can meet these requirements shall report the desirable data. Funding from the legislature must establish which subset data are absolutely required.

(4)(a) The K-12 data governance group shall provide updates on its work as requested by the education data center and the legislative evaluation and accountability program committee.

(b) The work of the K-12 data governance group shall be periodically reviewed and monitored by the educational data center and the legislative evaluation and accountability program committee.

(5) To the extent data is available, the office of the superintendent of public instruction shall make the following minimum reports available on the internet. The reports must either be run on demand against current data, or, if a static report, must have been run against the most recent data:

(a) The percentage of data compliance and data accuracy by school district;

(b) The magnitude of spending per student, by student estimated by the following algorithm and reported as the detailed summation of the following components:

(i) An approximate, prorated fraction of each teacher or human resource element that directly serves the student. Each human resource element must be listed or accessible through online tunneling in the report;

(ii) An approximate, prorated fraction of classroom or building costs used by the student;

(iii) An approximate, prorated fraction of transportation costs used by the student; and

(iv) An approximate, prorated fraction of all other resources within the district. District-wide components should be disaggregated to the extent that it is sensible and economical;

(c) The cost of K-12 basic education, per student, by student, by school district, estimated by the algorithm in (b) of this subsection, and reported in the same manner as required in (b) of this subsection;

(d) The cost of K-12 special education services per student, by student receiving those services, by school district, estimated by the algorithm in (b) of

this subsection, and reported in the same manner as required in (b) of this subsection;

(e) Improvement on the statewide assessments computed as both a percentage change and absolute change on a scale score metric by district, by school, and by teacher that can also be filtered by a student's length of full-time enrollment within the school district;

(f) Number of K-12 students per classroom teacher on a per teacher basis;

(g) Number of K-12 classroom teachers per student on a per student basis;

(h) Percentage of a classroom teacher per student on a per student basis; ((~~and~~))

(i) Percentage of classroom teachers per school district and per school disaggregated as described in RCW 28A.300.042(1) for student-level data;

(j) Average length of service of classroom teachers per school district and per school disaggregated as described in RCW 28A.300.042(1) for student-level data; and

(k) The cost of K-12 education per student by school district sorted by federal, state, and local dollars.

(6) The superintendent of public instruction shall submit a preliminary report to the legislature by November 15, 2009, including the analyses by the K-12 data governance group under subsection (3) of this section and preliminary options for addressing identified gaps. A final report, including a proposed phase-in plan and preliminary cost estimates for implementation of a comprehensive data improvement system for financial, student, and educator data shall be submitted to the legislature by September 1, 2010.

(7) All reports and data referenced in this section and RCW 43.41.400 and 28A.655.210 shall be made available in a manner consistent with the technical requirements of the legislative evaluation and accountability program committee and the education data center so that selected data can be provided to the legislature, governor, school districts, and the public.

(8) Reports shall contain data to the extent it is available. All reports must include documentation of which data are not available or are estimated. Reports must not be suppressed because of poor data accuracy or completeness. Reports may be accompanied with documentation to inform the reader of why some data are missing or inaccurate or estimated.

PART VII
TRANSITIONS

NEW SECTION. **Sec. 701.** A new section is added to chapter 43.215 RCW to read as follows:

The department, in collaboration with the office of the superintendent of public instruction, shall create a community information and involvement plan to inform home-based, tribal, and family early learning providers of the early achievers program under RCW 43.215.100.

PART VIII
INTEGRATED STUDENT SERVICES AND FAMILY ENGAGEMENT

NEW SECTION. **Sec. 801.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the Washington integrated student supports protocol is established. The

protocol shall be developed by the center for the improvement of student learning, established in RCW 28A.300.130, based on the framework described in this section. The purposes of the protocol include:

(a) Supporting a school-based approach to promoting the success of all students by coordinating academic and nonacademic supports to reduce barriers to academic achievement and educational attainment;

(b) Fulfilling a vision of public education where educators focus on education, students focus on learning, and auxiliary supports enable teaching and learning to occur unimpeded;

(c) Encouraging the creation, expansion, and quality improvement of community-based supports that can be integrated into the academic environment of schools and school districts;

(d) Increasing public awareness of the evidence showing that academic outcomes are a result of both academic and nonacademic factors; and

(e) Supporting statewide and local organizations in their efforts to provide leadership, coordination, technical assistance, professional development, and advocacy to implement high-quality, evidence-based, student-centered, coordinated approaches throughout the state.

(2)(a) The Washington integrated student supports protocol must be sufficiently flexible to adapt to the unique needs of schools and districts across the state, yet sufficiently structured to provide all students with the individual support they need for academic success.

(b) The essential framework of the Washington integrated student supports protocol includes:

(i) Needs assessments: A needs assessment must be conducted for all at-risk students in order to develop or identify the needed academic and nonacademic supports within the students' school and community. These supports must be coordinated to provide students with a package of mutually reinforcing supports designed to meet the individual needs of each student.

(ii) Integration and coordination: The school and district leadership and staff must develop close relationships with providers of academic and nonacademic supports to enhance the effectiveness of the protocol.

(iii) Community partnerships: Community partners must be engaged to provide nonacademic supports to reduce barriers to students' academic success, including supports to students' families.

(iv) Data driven: Students' needs and outcomes must be tracked over time to determine student progress and evolving needs.

(c) The framework must facilitate the ability of any academic or nonacademic provider to support the needs of at-risk students, including, but not limited to: Out-of-school providers, social workers, mental health counselors, physicians, dentists, speech therapists, and audiologists.

NEW SECTION. **Sec. 802.** (1) The legislature intends to integrate the delivery of various academic and nonacademic programs and services through a single protocol. This coordination and consolidation of assorted services, such as expanded learning opportunities, mental health, medical screening, and access to food and housing, is intended to reduce barriers to academic achievement and educational attainment by weaving together existing public and private resources needed to support student success in school.

(2) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall create a work group to determine how to best implement the framework described in section 801 of this act throughout the state.

(3) The work group must be composed of the following members, who must reflect the geographic diversity across the state:

(a) The superintendent of public instruction or the superintendent's designee;

(b) Three principals and three superintendents representing districts with diverse characteristics, selected by state associations of principals and superintendents, respectively;

(c) A representative from a statewide organization specializing in out-of-school learning;

(d) A representative from an organization with expertise in the needs of homeless students;

(e) A school counselor from an elementary school, a middle school, and a high school, selected by a state association of school counselors;

(f) A representative of an organization that is an expert on a multitiered system of supports; and

(g) A representative from a career and technical student organization.

(4) The superintendent of public instruction shall consult and may contract for services with a national nonpartisan, nonprofit research center that has provided data and analyses to improve policies and programs serving children and youth for over thirty-five years.

(5) The work group must submit to the appropriate committees of the legislature a report recommending policies that need to be adopted or revised to implement the framework described in section 801 of this act throughout the state by October 1, 2017. The work group must submit a preliminary report by October 1, 2016, and a final report by October 1, 2017.

(6) This section expires August 1, 2018.

Sec. 803. RCW 28A.165.035 and 2013 2nd sp.s. c 18 s 203 are each amended to read as follows:

(1) ((~~Beginning in the 2015-16 school year, expenditure of funds from the learning assistance program must be consistent with the provisions of RCW 28A.655.235.~~

~~(2)~~)) Use of best practices that have been demonstrated through research to be associated with increased student achievement magnifies the opportunities for student success. To the extent they are included as a best practice or strategy in one of the state menus or an approved alternative under this section or RCW 28A.655.235, the following are services and activities that may be supported by the learning assistance program:

(a) Extended learning time opportunities occurring:

(i) Before or after the regular school day;

(ii) On Saturday; and

(iii) Beyond the regular school year;

(b) Services under RCW 28A.320.190;

(c) Professional development for certificated and classified staff that focuses on:

(i) The needs of a diverse student population;

(ii) Specific literacy and mathematics content and instructional strategies; and

(iii) The use of student work to guide effective instruction and appropriate assistance;

(d) Consultant teachers to assist in implementing effective instructional practices by teachers serving participating students;

(e) Tutoring support for participating students;

(f) Outreach activities and support for parents of participating students, including employing parent and family engagement coordinators; and

(g) Up to five percent of a district's learning assistance program allocation may be used for development of partnerships with community-based organizations, educational service districts, and other local agencies to deliver academic and nonacademic supports to participating students who are significantly at risk of not being successful in school to reduce barriers to learning, increase student engagement, and enhance students' readiness to learn. The ((~~office of the superintendent of public instruction~~)) school board must approve in an open meeting any community-based organization or local agency before learning assistance funds may be expended.

((~~(3)~~)) (2) In addition to the state menu developed under RCW 28A.655.235, the office of the superintendent of public instruction shall convene a panel of experts, including the Washington state institute for public policy, to develop additional state menus of best practices and strategies for use in the learning assistance program to assist struggling students at all grade levels in English language arts and mathematics and reduce disruptive behaviors in the classroom. The office of the superintendent of public instruction shall publish the state menus by July 1, 2015, and update the state menus by each July 1st thereafter.

((~~(4)~~)) (3)(a) Beginning in the 2016-17 school year, except as provided in (b) of this subsection, school districts must use a practice or strategy that is on a state menu developed under subsection ((~~(3)~~)) (2) of this section or RCW 28A.655.235.

(b) Beginning in the 2016-17 school year, school districts may use a practice or strategy that is not on a state menu developed under subsection ((~~(3)~~)) (2) of this section for two school years initially. If the district is able to demonstrate improved outcomes for participating students over the previous two school years at a level commensurate with the best practices and strategies on the state menu, the office of the superintendent of public instruction shall approve use of the alternative practice or strategy by the district for one additional school year. Subsequent annual approval by the superintendent of public instruction to use the alternative practice or strategy is dependent on the district continuing to demonstrate increased improved outcomes for participating students.

(c) Beginning in the 2016-17 school year, school districts may enter cooperative agreements with state agencies, local governments, or school districts for administrative or operational costs needed to provide services in accordance with the state menus developed under this section and RCW 28A.655.235.

((~~(5)~~)) (4) School districts are encouraged to implement best practices and strategies from the state menus developed under this section and RCW 28A.655.235 before the use is required.

Sec. 804. RCW 28A.300.130 and 2009 c 578 s 6 are each amended to read as follows:

(1) To facilitate access to information and materials on educational improvement and research, the superintendent of public instruction, ((~~to the extent funds are appropriated~~)) subject to the availability of amounts appropriated for this specific purpose, shall establish the center for the improvement of student learning. The center shall work in conjunction with parents, educational service districts, institutions of higher education, and education, parent, community, and business organizations.

(2) The center, ((~~to the extent funds are appropriated for this purpose~~)) subject to the availability of amounts appropriated for this specific purpose, and in conjunction with other staff in the office of the superintendent of public instruction, shall:

(a) Serve as a clearinghouse for information regarding successful educational improvement and parental involvement programs in schools and districts, and information about efforts within institutions of higher education in the state to support educational improvement initiatives in Washington schools and districts;

(b) Provide best practices research that can be used to help schools develop and implement: Programs and practices to improve instruction; systems to analyze student assessment data, with an emphasis on systems that will combine the use of state and local data to monitor the academic progress of each and every student in the school district; comprehensive, school-wide improvement plans; school-based shared decision-making models; programs to promote lifelong learning and community involvement in education; school-to-work transition programs; programs to meet the needs of highly capable students; programs and practices to meet the needs of students with disabilities; programs and practices to meet the diverse needs of students based on gender, racial, ethnic, economic, and special needs status; research, information, and technology systems; and other programs and practices that will assist educators in helping students learn the essential academic learning requirements;

(c) Develop and maintain an internet web site to increase the availability of information, research, and other materials;

(d) Work with appropriate organizations to inform teachers, district and school administrators, and school directors about the waivers available and the broadened school board powers under RCW 28A.320.015;

(e) Provide training and consultation services, including conducting regional summer institutes;

(f) Identify strategies for improving the success rates of ethnic and racial student groups and students with disabilities, with disproportionate academic achievement;

(g) Work with parents, teachers, and school districts in establishing a model absentee notification procedure that will properly notify parents when their student has not attended a class or has missed a school day. The office of the superintendent of public instruction shall consider various types of communication with parents including, but not limited to, ((~~electronic mail~~)) email, phone, and postal mail; and

(h) Perform other functions consistent with the purpose of the center as prescribed in subsection (1) of this section.

(3) The superintendent of public instruction shall select and employ a director for the center.

(4) The superintendent may enter into contracts with individuals or organizations including but not limited to: School districts; educational service districts; educational organizations; teachers; higher education faculty; institutions of higher education; state agencies; business or community-based organizations; and other individuals and organizations to accomplish the duties and responsibilities of the center. In carrying out the duties and responsibilities of the center, the superintendent, whenever possible, shall use practitioners to assist agency staff as well as assist educators and others in schools and districts.

(5) The office of the superintendent of public instruction shall report to the legislature by September 1, 2007, and thereafter biennially, regarding the effectiveness of the center for the improvement of student learning, how the services provided by the center for the improvement of student learning have been used and by whom, and recommendations to improve the accessibility and application of knowledge and information that leads to improved student learning and greater family and community involvement in the public education system.

Passed by the House March 10, 2016.

Passed by the Senate March 4, 2016.

Approved by the Governor March 30, 2016.

Filed in Office of Secretary of State March 31, 2016.

CHAPTER 73

[House Bill 1022]

BAIL BOND AGREEMENTS--GENERAL POWER OF ATTORNEY PROVISIONS

AN ACT Relating to prohibiting general power of attorney provisions in bail bond agreements; and adding a new section to chapter 18.185 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 18.185 RCW to read as follows:

Entering into a contract, including a general power of attorney, that gives a bail bond agent full authority over a person's finances, assets, real property, or personal property creates a presumption of unprofessional conduct that may be overcome by a preponderance of the evidence presented to the department to the contrary. The department has the discretion to determine whether or not the bail bond agency or agent has overcome the presumption and if unprofessional conduct was committed.

Passed by the House February 11, 2016.

Passed by the Senate March 1, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.

CHAPTER 74

[Substitute House Bill 1111]

COURT TRANSCRIPTS

AN ACT Relating to court transcripts; amending RCW 2.32.240, 2.32.250, and 3.02.040; and reenacting and amending RCW 36.18.016.

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

Sec. 1. RCW 2.32.240 and 2011 c 336 s 54 are each amended to read as follows:

When a record has been taken in any cause as provided in RCW 2.32.180 through 2.32.310, if the court, or either party to the suit or action, or his or her attorney, request a transcript, the official reporter ((~~and clerk of the court~~)) employed by the court or other certified court reporter, or an authorized transcriptionist, shall make, or cause to be made, with reasonable diligence, full and accurate transcript of the testimony and other proceedings, which shall, when certified to as hereinafter provided, be filed with the clerk of the court where such trial is had for the use of the court or parties to the action, except for transcripts requested for an appellate case. The fees of the official reporter ((~~and clerk of the~~)) employed by the court or other certified court reporter, or authorized transcriptionist, as defined by supreme court rule, for making such transcript shall be fixed in accordance with costs as allowed in cost bills in civil cases by the supreme court of the state of Washington, and when such transcript is ordered by any party to any suit or action, said fee shall be paid forthwith by the party ordering the same, and in all cases where a transcript is made as provided for under the provisions of RCW 2.32.180 through 2.32.310 the cost thereof shall be taxable as costs in the case, and shall be so taxed as other costs in the case are taxed: PROVIDED, That when((~~, from and after December 20, 1973,~~)) a party has been judicially determined to have a constitutional right to a transcript and to be unable by reason of poverty to pay for such transcript, the court may order said transcript to be made by the official reporter employed by the court or other certified court reporter, or an authorized transcriptionist, which transcript fee therefor shall be paid by the state upon submission of appropriate vouchers to the clerk of the supreme court.

Sec. 2. RCW 2.32.250 and 1913 c 126 s 6 are each amended to read as follows:

The report of the official reporter employed by the court or other certified court reporter, or authorized transcriptionist, when transcribed and certified as being a correct transcript of the stenographic notes ((~~of the~~)) or electronically recorded testimony, or other oral proceedings had in the matter, shall be prima facie a correct statement of such testimony or other oral proceedings had, and the same may thereafter, in any civil cause, be read in evidence as competent testimony, when satisfactory proof is offered to the judge presiding that the witness originally giving such testimony is then dead or without the jurisdiction of the court, subject, however, to all objections the same as though such witness were present and giving such testimony in person.

Sec. 3. RCW 3.02.040 and 1980 c 162 s 4 are each amended to read as follows:

The administrator for the courts ((~~shall supervise~~)) may be consulted for advice on the selection, installation, and operation of any electronic recording equipment in courts of limited jurisdiction.

Sec. 4. RCW 36.18.016 and 2015 c 275 s 11 and 2015 c 265 s 27 are each reenacted and 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 fifty-four dollars. The clerk of the superior court shall transmit monthly forty-eight dollars of the 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, 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 audiotape and twenty-five dollars for each ((~~videotape~~)) video 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 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.

Passed by the House February 17, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 75

[Substitute House Bill 1130]

WATER USE FOR POWER GENERATION--LICENSING--ACCOUNTABILITY

AN ACT Relating to water power license fees; and amending RCW 90.16.050.

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

Sec. 1. RCW 90.16.050 and 2007 c 286 s 1 are each amended to read as follows:

(1) Every person, firm, private or municipal corporation, or association hereinafter called "claimant", claiming the right to the use of water within or bordering upon the state of Washington for power development, shall on or before the first day of January of each year pay to the state of Washington in advance an annual license fee, based upon the theoretical water power claimed under each and every separate claim to water according to the following schedule:

(a) For projects in operation: For each and every theoretical horsepower claimed up to and including one thousand horsepower, at the rate of eighteen cents per horsepower; for each and every theoretical horsepower in excess of one thousand horsepower, up to and including ten thousand horsepower, at the rate of three and six-tenths cents per horsepower; for each and every theoretical horsepower in excess of ten thousand horsepower, at the rate of one and eight-tenths cents per horsepower.

(b) For federal energy regulatory commission projects in operation that are subject to review for certification under section 401 of the federal clean water act, the following fee schedule applies in addition to the fees in (a) of this subsection: For each theoretical horsepower of capacity up to and including one thousand horsepower, at the rate of thirty-two cents per horsepower; for each theoretical horsepower in excess of one thousand horsepower, up to and including ten thousand horsepower, at the rate of six and four-tenths cents per horsepower; for each theoretical horsepower in excess of ten thousand horsepower, at the rate of three and two-tenths cents per horsepower.

(c) To justify the appropriate use of fees collected under (b) of this subsection, the department of ecology shall submit a progress report to the appropriate committees of the legislature prior to December 31, 2009, and biennially thereafter ((~~until December 31, 2017~~)).

(i) The progress report will: (A) Describe how license fees and other funds used for the work of the licensing program were expended in direct support of the federal energy regulatory commission licensing process and license implementation during the current biennium, and expected workload and full-time equivalent employees for federal energy regulatory commission licensing in the next biennium. In order to increase the financial accountability of the licensing, relicensing, and license implementation program, the report must include the amount of licensing fees and program funds that were expended on licensing work associated with each hydropower project. This project-specific program expenditure list must detail the program costs and staff time associated with each hydropower project during the time period immediately prior to license issuance process, the program costs and staff time deriving from the issuance or reissuance of a license to each hydropower project, and the program costs and staff time associated with license implementation after the issuance or reissuance of a license to a hydropower project. This program cost and staff time information must be collected beginning July 1, 2016, and included in biennial reports addressing program years 2016 or later. The report must also include an estimate of the total workload, program costs, and staff time for work associated with either certification under section 401 of the federal clean water act or license implementation for federally licensed hydropower projects expected to occur in the next reporting period, or both. In addition, the report must provide sufficient information to determine that the fees charged are not for activities already performed by other state or federal agencies or tribes that have jurisdiction over a specific license requirement and that duplicative work and expense is avoided; (B) include any recommendations based on consultation with the departments of ecology and fish and wildlife, hydropower project operators, and other interested parties; and (C) recognize hydropower operators that exceed their environmental regulatory requirements.

(ii) The fees required in (b) of this subsection expire June 30, ((~~2017~~)) 2023. The biennial progress reports submitted by the department of ecology will serve as a record for considering the extension of the fee structure in (b) of this subsection.

(2) The following are exceptions to the fee schedule in subsection (1) of this section:

(a) For undeveloped projects, the fee shall be at one-half the rates specified for projects in operation; for projects partly developed and in operation the fees

paid on that portion of any project that shall have been developed and in operation shall be the full annual license fee specified in subsection (1) of this section for projects in operation, and for the remainder of the power claimed under such project the fees shall be the same as for undeveloped projects.

(b) The fees required in subsection (1) of this section do not apply to any hydropower project owned by the United States.

(c) The fees required in subsection (1) of this section do not apply to the use of water for the generation of fifty horsepower or less.

(d) The fees required in subsection (1) of this section for projects developed by an irrigation district in conjunction with the irrigation district's water conveyance system shall be reduced by fifty percent to reflect the portion of the year when the project is not operable.

(e) Any irrigation district or other municipal subdivision of the state, developing power chiefly for use in pumping of water for irrigation, upon the filing of a statement showing the amount of power used for irrigation pumping, is exempt from the fees in subsection (1) of this section to the extent of the power used for irrigation pumping.

(3) In order to ensure accountability in the licensing, relicensing, and license implementation programs of the department of ecology and the department of fish and wildlife, the departments must implement the following administrative requirements:

(a)(i) Both the department of ecology and the department of fish and wildlife must be responsible for producing an annual work plan that addresses the work anticipated to be completed by each department associated with federal hydropower licensing and license implementation.

(ii) Both the department of ecology and the department of fish and wildlife must assign one employee to each licensed hydropower project to act as each department's designated licensing and implementation lead for a hydropower project. The responsibility assigned by each department to hydropower project licensing and implementation leads must include resolving conflicts with the license applicant or license holder and the facilitation of department decision making related to license applications and license implementation for the particular hydropower project assigned to a licensing lead.

(b) The department of ecology and the department of fish and wildlife must host an annual meeting with parties interested in or affected by hydropower project licensing and the associated fees charged under this section. The purposes of the annual meeting must include soliciting information from interested parties related to the annual hydropower work plan required by (a) of this subsection and to the biennial progress report produced pursuant to subsection (1)(c)(i) of this section.

(c) Prior to the annual meeting required by (b) of this subsection, the department of fish and wildlife and the department of ecology must circulate a survey to hydropower licensees soliciting feedback on the responsiveness of department staff, clarity of staff roles and responsibilities in the hydropower licensing and implementation process, and other topics related to the professionalism and expertise of department staff assigned to hydropower project licensing projects. This survey must be designed by the department of fish and wildlife and the department of ecology after consulting with hydropower licensees and the results of the survey must be included in the

biennial progress report produced pursuant to subsection (1)(c)(i) of this section. Prior to the annual meeting, the department of ecology and the department of fish and wildlife must analyze the survey results. The departments must present summarized information based on their analysis of survey results at the annual meeting for purposes of discussion with hydropower project licensees.

Passed by the House March 8, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 76

[Engrossed Substitute House Bill 1213]

COUNTY VETERANS' ASSISTANCE FUNDS--DEFINITION OF VETERAN

AN ACT Relating to the definition of veteran for the purposes of the county veterans assistance fund; and amending RCW 73.08.005.

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

Sec. 1. RCW 73.08.005 and 2013 c 42 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) "Direct costs" includes those allowable costs that can be readily assigned to the statutory objectives of this chapter, consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(2) "Family" means the spouse or domestic partner, surviving spouse, surviving domestic partner, and dependent children of a living or deceased veteran, or a servicemember who was killed in the line of duty regardless of the number of days served.

(3) "Indigent" means a person who is defined as such by the county legislative authority using one or more of the following definitions:

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

(b) Receiving an annual income, after taxes, of up to one hundred fifty percent or less of the current federally established poverty level, or receiving an annual income not exceeding a higher qualifying income established by the county legislative authority; or

(c) Unable to pay reasonable costs for shelter, food, utilities, and transportation because his or her available funds are insufficient.

(4) "Indirect costs" includes those allowable costs that are generally associated with carrying out the statutory objectives of this chapter, but the identification and tracking of those costs cannot be readily assigned to a specific statutory objective without an accounting effort that is disproportionate to the benefit received. A county legislative authority may allocate allowable indirect costs to its veterans' assistance fund if it is accomplished in a manner consistent

with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(5)(a) "Veteran" ((~~has the same meaning as defined in RCW 41.04.005 and 41.04.007, and in addition may include, at the discretion of the county legislative authority and in consultation with the veterans' advisory board, any other person who at the time he or she seeks the benefits of RCW 73.08.010, 73.08.070, and 73.08.080:~~

~~(a) Has received a general discharge under honorable conditions; or~~

~~(b) Has received a medical or physical discharge with an honorable record~~))means:

(i) A person who served in the active military, naval, or air service; a member of the women's air forces service pilots during World War II; a United States documented merchant mariner with service aboard an oceangoing vessel operated by the war shipping administration; the office of defense transportation, or their agents, from December 7, 1941, through December 31, 1946; or a civil service crewmember with service aboard a United States army transport service or United States naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946 who meets one of the following criteria:

(A) Served on active duty for at least one hundred eighty days and who was released with an honorable discharge;

(B) Received an honorable or general under honorable characterization of service with a medical reason for separation for a condition listed as non-existed prior to service, regardless of number of days served; or

(C) Received an honorable discharge and has received a rating for a service connected disability from the United States department of veterans affairs regardless of number of days served;

(ii) A current member honorably serving in the armed forces reserve or national guard who has been activated by presidential call up for purposes other than training;

(iii) A former member of the armed forces reserve or national guard who has fulfilled his or her initial military service obligation and was released with an honorable discharge;

(iv) A former member of the armed forces reserve or national guard who was released before their term ended and was released with an honorable discharge.

(b) At the discretion of the county legislative authority and in consultation with the veterans' advisory board, counties may expand eligibility for the veterans assistance fund as the county determines necessary, which may include serving veterans with additional discharge characterizations.

(6) "Veterans' advisory board" means a board established by a county legislative authority under the authority of RCW 73.08.035.

(7) "Veterans' assistance fund" means an account in the custody of the county auditor, or the chief financial officer in a county operating under a charter, that is funded by taxes levied under the authority of RCW 73.08.080.

(8) "Veterans' assistance program" means a program approved by the county legislative authority under the authority of RCW 73.08.010 that is fully or partially funded by the veterans' assistance fund authorized by RCW 73.08.080.

Passed by the House February 17, 2016.

Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 77

[House Bill 1345]

TEACHERS--PROFESSIONAL LEARNING--DEFINITION AND STANDARDS

AN ACT Relating to adopting a definition and standards of professional learning; adding new sections to chapter 28A.300 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 effective professional learning enables educators to acquire and apply the knowledge, skills, practices, and dispositions needed to help students learn and achieve at higher levels.

(2) The legislature further finds that a clear definition of professional learning provides a foundational vision that sets the course for how state, regional, and local education leaders support educator professional learning in order to advance student learning. A shared, statewide definition is a piece of critical infrastructure to guide policy and investments in the content, structure, and provision of the types of professional learning opportunities that are associated with increased student performance. A definition of professional learning is also an accountability measure to assure that professional learning will have the highest possible return on investment in terms of increased student performance.

(3) Therefore, the legislature intends to adopt a statewide definition of effective professional learning. Each public school and school district should establish targeted, sustained, relevant professional learning opportunities that meet the definition and are aligned to state and district goals.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The term "professional learning" means a comprehensive, sustained, job-embedded, and collaborative approach to improving teachers' and principals' effectiveness in raising student achievement. Professional learning fosters collective responsibility for improved student performance and must comprise learning that is aligned with student learning needs, educator development needs, and school district, or state improvement goals. Professional learning shall have as its primary focus the improvement of teachers' and school leaders' effectiveness in assisting all students to meet the state learning standards.

(2) Professional learning is an ongoing process that is measurable by multiple indicators and includes learning experiences that support the acquisition and transfer of learning, knowledge, and skills into the classroom and daily practice.

(3) Professional learning shall incorporate differentiated, coherent, sustained, and evidence-based strategies that improve educator effectiveness and student achievement, including job-embedded coaching or other forms of assistance to support educators' transfer of new knowledge and skills into their practice.

(4) Professional learning should include the work of established collaborative teams of teachers, school leaders, and other administrative, instructional, and educational services staff members, who commit to working together on an ongoing basis to accomplish common goals and who are engaged in a continuous cycle of professional improvement that is focused on:

(a) Identifying student and educator learning needs using multiple sources of data;

(b) Defining a clear set of educator learning goals based on the rigorous analysis of these multiple data sources and the collective and personalized learning needs of teachers and administrators;

(c) Continuously assessing the effectiveness of the professional learning in achieving identified learning goals, improving teaching, and assisting all students in meeting state academic learning standards through reflection, observation, and sustained support;

(d) Using formative and summative measures to assess the effectiveness of professional learning in achieving educator learning goals;

(e) Realizing the three primary purposes for professional learning: (i) Individual improvement aligned with individual goals; (ii) school and team improvement aligned with school and team improvement; and (iii) program implementation aligned with state, district, and school improvement goals and initiatives.

(5) Professional learning should be facilitated by well-prepared school and district leaders who incorporate knowledge, skills, and dispositions for leading professional learning of adults and meet the standards described in section 3 of this act. These facilitators may include but are not limited to: Curriculum specialists, central office administrators, principals, coaches, mentors, master teachers, and other teacher leaders.

(6) Principals should assist staff with alignment of professional learning tied to curriculum, instruction, and state and local learning goals and assessments.

(7) Professional learning may be supported by external expert assistance or additional activities that will be held to the same definition and standards as internally supported professional learning, and that:

(a) Address defined student and educator learning goals;

(b) Include, but are not limited to, courses, workshops, institutes, networks, studio residencies, virtual learning modules, and conferences provided by for-profit and nonprofit entities outside the school such as universities, educational service districts, technical assistance providers, networks of content specialists, and other education organizations and associations; and

(c) Advance ongoing school-based professional learning that occurs throughout the year with opportunities for regular practice and feedback while developing new skills.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.300 RCW to read as follows:

Standards for professional learning provide guidance on the preparation and delivery of high quality professional learning to those responsible for planning, facilitating, and sponsoring professional learning.

(1) Content standards. High quality professional learning:

(a) Includes clear goals and objectives relevant to desired student outcomes; and

(b) Aligns with state, district, school, and educator goals or priorities.

(2) Process standards. High quality professional learning:

(a) Is designed and based upon the analysis of data relevant to the identified goals, objectives, and audience;

(b) Is assessed to determine that it is meeting the targeted goals and objectives;

(c) Promotes collaboration among educators to encourage sharing of ideas and working together to achieve the identified goals and objectives;

(d) Advances an educator's ability to apply acquired knowledge and skills from the professional learning to specific content; and

(e) Models good pedagogical practice and applies knowledge of adult learning theory to engage educators.

(3) Context standards. High quality professional learning:

(a) Makes use of relevant resources to ensure the identified goals and objectives are met;

(b) Is facilitated by a professional knowledgeable about the identified objectives; and

(c) Is designed in such a way that sessions connect and build upon each other to provide a coherent and useful learning experience for educators.

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

The definitions in this section apply throughout sections 2 and 3 of this act unless the context clearly requires otherwise.

(1) "Differentiated" means that professional learning experiences are designed to meet the needs of individual educators based on multiple sources of data such as professional growth plans, observations, and student growth data.

(2) "Job-embedded" means a sustained series of activities such as workshops and coaching occurring throughout the year that is delivered within the context of an educator's instructional assignments, including both subject and grade level, to support the educator's acquisition and application of the knowledge and skills.

(3) "Student outcomes" refers to two broad categories of student measures: Academic measures and nonacademic measures. Academic measures refer to student learning, growth, and achievement. Nonacademic measures are indicators such as health, behavioral, or socioemotional factors that support student learning.

(4) "Sustained" means ongoing professional learning supported throughout the school year occurring several times within and across school years.

Passed by the House January 27, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 78

[Engrossed Substitute House Bill 1351]

NATIONAL GUARD MEMBERS--RECREATIONAL HUNTING LICENSES WITHOUT COST

AN ACT Relating to license fees for national guard members under Title 77 RCW; and amending RCW 77.32.480.

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

Sec. 1. RCW 77.32.480 and 2013 c 101 s 1 are each amended to read as follows:

(1) Upon written application, a combination fishing license shall be issued at the reduced rate of five dollars and all hunting licenses shall be issued at the reduced rate of a youth hunting license fee for the following individuals:

(a) A resident sixty-five years old or older who is an honorably discharged veteran of the United States armed forces having a service-connected disability;

(b) A resident who is an honorably discharged veteran of the United States armed forces with a thirty percent or more service-connected disability;

(c) A resident with a disability who permanently uses a wheelchair;

(d) A resident who is blind or visually impaired; and

(e) A resident with a developmental disability as defined in RCW 71A.10.020 with documentation of the disability certified by a physician licensed to practice in this state.

(2) Upon department verification of eligibility, a nonstate resident veteran with a disability who otherwise satisfies the criteria of subsection (1)(a) and (b) of this section must be issued a combination fishing license or any hunting license at the same cost charged to a nondisabled Washington resident for the same license.

(3) Upon written application and department verification, the following recreational hunting licenses must be issued at no cost to a resident member of the state guard or national guard, as defined in RCW 38.04.010, as long as the state guard or national guard member is: An active full-time state guard or national guard employee; or a state guard or national guard member whose status requires the state guard or national guard member to participate in drill training on a part-time basis:

(a) A small game hunting license under RCW 77.32.460(1);

(b) A supplemental migratory bird permit under RCW 77.32.350; and

(c) A big game hunting license under RCW 77.32.450 (1) and (2).

Passed by the House March 8, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 79

[Second Substitute House Bill 1408]

FAMILY ENGAGEMENT COORDINATORS--RECOMMENDATION ON DEFINITIONS AND MODEL

AN ACT Relating to developing a definition and model for "family engagement coordinator" and other terms used interchangeably with it; 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 legislature finds that the terms "family engagement coordinator," "parent and family engagement coordinator," and "parent involvement coordinator" are used interchangeably in various statutes in Title 28A RCW, as well as in the omnibus appropriations act. The legislature

further finds that this staff position is included in the prototypical school model and received funding in the 2013-2015 omnibus appropriations act. Despite this appropriate recognition of the critical importance of family engagement and the need for such a designated school staff position, there is no single definition of the term, nor is there a model or framework for the staff position. The legislature intends to task the office of the education ombuds and the educational opportunity gap oversight and accountability committee with developing a definition for the term and a model or framework for the position and recommending these to the legislature.

(2) By December 1, 2016, the office of the education ombuds, together with the educational opportunity gap oversight and accountability committee, shall develop and recommend to the education committees of the legislature a definition for the term that is variously referred to as "family engagement coordinator," "parent and family engagement coordinator," and "parent involvement coordinator" and a model or framework for such a staff position. In developing the model or framework for the staff position, the office and the committee shall collaborate with the office of the superintendent of public instruction, the Washington education association, the public school employees of Washington, the Washington school counselors' association, the association of Washington school principals, and the Washington state school directors' association.

(3) This section expires July 1, 2017.

Passed by the House January 27, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 80

[Engrossed House Bill 1409]

VESSEL OWNER INFORMATION--DISCLOSURE

AN ACT Relating to the disclosure of vessel owner information; amending RCW 46.12.630, 46.12.635, and 46.12.640; adding a new section to chapter 88.02 RCW; and prescribing penalties.

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

Sec. 1. RCW 46.12.630 and 2014 c 79 s 1 are each amended to read as follows:

(1) The department of licensing must furnish lists of registered and legal owners of: (a) Motor vehicles only for the purposes specified in this subsection (1)(a) to the manufacturers of motor vehicles or motor vehicle components, or their authorized agents, to enable those manufacturers to carry out the provisions of Titles I and IV of the anti car theft act of 1992, the automobile information disclosure act (15 U.S.C. Sec. 1231 et seq.), the clean air act (42 U.S.C. Sec. 7401 et seq.), and 49 U.S.C.((~~S.~~)) Secs. 30101-30183, 30501-30505, and 32101-33118, as these acts existed on January 1, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. However, the department may only provide a vehicle or vehicle component manufacturer, or its authorized agent, lists of registered or legal owners who purchased or leased a vehicle manufactured by that manufacturer or

a vehicle containing a component manufactured by that component manufacturer. Manufacturers or authorized agents receiving information on behalf of one manufacturer must not disclose this information to any other third party that is not necessary to carry out the purposes of this section; and (b) vessels only for the purposes of this subsection (1)(b) to the manufacturers of vessels, or their authorized agents, to enable those manufacturers to carry out the provisions of 46 U.S.C. Sec. 4310 and any relevant code of federal regulation adopted by the United States coast guard, as these provisions and rules existed on January 1, 2015, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(2) The department of licensing may furnish lists of registered and legal owners of motor vehicles or vessels, only to the entities and only for the purposes specified in this section, to:

(a) The manufacturers of motor vehicles or vessels, legitimate businesses as defined by the department in rule, or their authorized agents, for purposes of using lists of registered and legal owner information to conduct research activities and produce statistical reports, as long as the entity does not allow personal information received under this section to be published, redisclosed, or used to contact individuals. For purposes of this subsection (2)(a), the department of licensing may only provide the manufacturer of a motor vehicle or vessel, or the manufacturer of components contained in a motor vehicle or vessel, the lists of registered or legal owners who purchased or leased a vehicle or vessel manufactured by that manufacturer or a vehicle or vessel containing components manufactured by that component manufacturer;

(b) Any governmental agency of the United States or Canada, or political subdivisions thereof, to be used by it or by its authorized commercial agents or contractors only in connection with the enforcement of: (i) Motor vehicle or traffic laws by, or programs related to traffic safety of, that government agency; or (ii) the laws governing vessels, vessel operation, or vessel safety programs administered by that government agency or as otherwise provided by law. Only such parts of the list under (i) and (ii) of this subsection (2)(b) as are required for completion of the work required of the agent or contractor shall be provided to such agent or contractor;

(c) Any insurer or insurance support organization, a self-insured entity, or its agents, employees, or contractors for use in connection with claims investigation activities, antifraud activities, rating, or underwriting;

(d) Any local governmental entity or its agents for use in providing notice to owners of towed and impounded vehicles, or to any law enforcement entity for use, as may be necessary, in locating the owner of or otherwise dealing with a vessel that has become a hazard;

(e) A government agency, commercial parking company, or its agents requiring the names and addresses of registered owners to notify them of outstanding parking violations. Subject to the disclosure agreement provisions of RCW 46.12.635 and the requirements of Executive Order 97-01, the department may provide only the parts of the list that are required for completion of the work required of the company;

(f) An authorized agent or contractor of the department, to be used only in connection with providing motor vehicle or vessel excise tax, licensing, title, and registration information to motor vehicle or vessel dealers;

(g) Any business regularly making loans to other persons to finance the purchase of motor vehicles or vessels, to be used to assist the person requesting the list to determine ownership of specific vehicles or vessels for the purpose of determining whether or not to provide such financing; or

(h) A company or its agents operating a toll facility under chapter 47.46 RCW or other applicable authority requiring the names, addresses, and vehicle information of motor vehicle registered owners to identify toll violators.

(3) Personal information received by an entity listed in subsection (1) or (2) of this section may not be released for direct marketing purposes.

(4) Prior to the release of any lists of vehicle or vessel owners under subsection (1) or (2) of this section, the department must enter into a contract with the entity authorized to receive the data. The contract must include:

(a) A requirement that the department or its agent conduct both regular permissible use and data security audits subject to the following conditions and limitations:

(i) The data security audits must demonstrate compliance with the data security standards adopted by the office of the chief information officer.

(ii) When determining whether to conduct an audit under this subsection, the department must first take into consideration any independent third-party audit a data recipient has had before requiring that any additional audits be performed. If the independent third-party audit is a data security audit and it meets both recognized national or international standards and the standards adopted by the office of the chief information officer pursuant to (a)(i) of this subsection, the department must accept the audit and the audit is deemed to satisfy the conditions set out in this subsection (4)(a). If the independent third-party audit is a permissible use audit and it meets recognized national or international standards, the department must accept the audit and the audit is deemed to satisfy the conditions set out in this subsection (4)(a); and

(b) A provision that the cost of the audits performed pursuant to this subsection must be borne by the data recipient. A new data recipient must bear the initial cost to set up a system to disburse the data to the data recipient.

(5)(a) Beginning January 1, 2015, the department must collect a fee of ten dollars per one thousand individual registered or legal owners included on a list requested by a private entity under subsection (1) or (2) of this section. Beginning January 1, 2016, the department must collect a fee of twenty dollars per one thousand individual registered or legal vehicle or vessel owners included on a list requested by a private entity under subsection (1) or (2) of this section. Beginning January 1, 2021, the department must collect a fee of twenty-five dollars per one thousand individual registered or legal owners included on a list requested by a private entity under subsection (1) or (2) of this section. The department must prorate the fee when the request is for less than a full one thousand records.

(b) In lieu of the fee specified in (a) of this subsection, if the request requires a daily, weekly, monthly, or other regular update of those vehicle or vessel records that have changed:

(i) Beginning January 1, 2015, the department must collect a fee of one cent per individual registered or legal vehicle or vessel owner record provided to the private entity;

(ii) Beginning January 1, 2016, the department must collect a fee of two cents per individual registered or legal vehicle or vessel owner record provided to the private entity;

(iii) Beginning January 1, 2021, the department must collect a fee of two and one-half cents per individual registered or legal vehicle or vessel owner record provided to the private entity.

(c) The department must deposit any moneys collected under this subsection to the department of licensing technology improvement and data management account created in RCW 46.68.063.

(6) Where both a mailing address and residence address are recorded on the vehicle or vessel record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to requests for disclosure from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business.

(7) If a list of registered and legal owners of motor vehicles or vessels is used for any purpose other than that authorized in this section, the manufacturer, governmental agency, commercial parking company, contractor, financial institution, insurer, insurance support organization, self-insured entity, legitimate business entity, toll facility operator, or any authorized agent or contractor responsible for the unauthorized disclosure or use will be denied further access to such information by the department of licensing.

(8) For purposes of this section, "personal information" means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the five-digit zip code), telephone number, or medical or disability information. However, an individual's photograph, social security number, and any medical or disability-related information is considered highly restricted personal information and may not be released under this section.

Sec. 2. RCW 46.12.635 and 2013 c 232 s 1 are each amended to read as follows:

(1) Notwithstanding the provisions of chapter 42.56 RCW, the name or address of an individual vehicle or vessel owner shall not be released by the department, county auditor, or agency or firm authorized by the department except under the following circumstances:

(a) The requesting party is a business entity that requests the information for use in the course of business;

(b) The request is a written request that is signed by the person requesting disclosure that contains the full legal name and address of the requesting party, that specifies the purpose for which the information will be used; and

(c) The requesting party enters into a disclosure agreement with the department in which the party promises that the party will use the information only for the purpose stated in the request for the information; and that the party does not intend to use, or facilitate the use of, the information for the purpose of making any unsolicited business contact with a person named in the disclosed information. The term "unsolicited business contact" means a contact that is intended to result in, or promote, the sale of any goods or services to a person named in the disclosed information. The term does not apply to situations where the requesting party and such person have been involved in a business

transaction prior to the date of the disclosure request and where the request is made in connection with the transaction.

(2) Where both a mailing address and residence address are recorded on the vehicle or vessel record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to requests for disclosure from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business.

(3) The disclosing entity shall retain the request for disclosure for three years.

(4)(a) Whenever the disclosing entity grants a request for information under this section by an attorney or private investigator, the disclosing entity shall provide notice to the vehicle or vessel owner, to whom the information applies, that the request has been granted. The notice must only include: (i) That the disclosing entity has disclosed the vehicle or vessel owner's name and address pursuant to a request made under this section; (ii) the date that the disclosure was made; and (iii) that the vehicle or vessel owner has five days from receipt of the notice to contact the disclosing entity to determine the occupation of the requesting party.

(b) Except as provided in (c) of this subsection, the only information about the requesting party that the disclosing entity may disclose in response to a request made by a vehicle or vessel owner under (a) of this subsection is whether the requesting party was an attorney or private investigator. The request by the vehicle or vessel owner must be submitted to the disclosing entity within five days of receipt of the original notice.

(c) In the case of a vehicle or vessel owner who submits to the disclosing entity a copy of a valid court order restricting another person from contacting the vehicle or vessel owner or his or her family or household member, the disclosing entity shall provide the vehicle or vessel owner with the name and address of the requesting party.

(5) Any person who is furnished vehicle or vessel owner information under this section shall be responsible for assuring that the information furnished is not used for a purpose contrary to the agreement between the person and the department.

(6) This section shall not apply to requests for information by governmental entities or requests that may be granted under any other provision of this title expressly authorizing the disclosure of the names or addresses of vehicle or vessel owners. Requests from law enforcement officers for vessel record information must be granted. The disclosure agreement with law enforcement entities must provide that law enforcement may redisclose a vessel owner's name or address when trying to locate the owner of or otherwise deal with a vessel that has become a hazard.

(7) The department shall disclose vessel records for any vessel owned by a governmental entity upon request.

(8) This section shall not apply to title history information under RCW 19.118.170.

((~~(8)~~))(9) The department shall charge a fee of two dollars for each record returned pursuant to a request made by a business entity under subsection (1) of this section and deposit the fee into the highway safety account.

Sec. 3. RCW 46.12.640 and 2011 c 96 s 30 are each amended to read as follows:

(1) The department may review the activities of a person who receives vehicle or vessel record information to ensure compliance with the limitations imposed on the use of the information. The department shall suspend or revoke for up to five years the privilege of obtaining vehicle or vessel record information of a person found to be in violation of ((~~chapter 42.56 RCW,~~)) this chapter((~~,~~)) or a disclosure agreement executed with the department.

(2) In addition to the penalty in subsection (1) of this section:

(a) The unauthorized disclosure of information from a department vehicle or vessel record; or

(b) The use of a false representation to obtain information from the department's vehicle or vessel records; or

(c) The use of information obtained from the department vehicle or vessel records for a purpose other than what is stated in the request for information or in the disclosure agreement executed with the department; or

(d) The sale or other distribution of any vehicle or vessel owner name or address to another person not disclosed in the request or disclosure agreement

is a gross misdemeanor punishable by a fine not to exceed ten thousand dollars, or by imprisonment in a county jail for up to three hundred sixty-four days, or by both such fine and imprisonment for each violation.

NEW SECTION. **Sec. 4.** A new section is added to chapter 88.02 RCW to read as follows:

The disclosure of vessel owner records by the department of licensing is governed under RCW 46.12.630, 46.12.635, and 46.12.640.

Passed by the House February 10, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 81

[Second Engrossed Substitute House Bill 1553]

CRIMINAL HISTORY--EMPLOYMENT, LICENSING, AND HOUSING--CERTIFICATES OF RESTORATION OF OPPORTUNITY

AN ACT Relating to certificates of restoration of opportunity; amending RCW 10.97.030, 14.20.090, 9.96A.020, 9.96A.050, 18.11.160, 18.39.410, 18.64.165, 18.108.085, 18.130.055, 18.235.110, 18.145.120, 18.160.080, and 18.130.160; reenacting and amending RCW 18.130.050 and 9.94A.030; adding a new chapter to Title 9 RCW; and creating new sections.

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

NEW SECTION. **Sec. 1.** The legislature finds that employment is a key factor to the successful reintegration to society of people with criminal histories, and is critical to reducing recidivism, promoting public safety, and encouraging personal responsibility.

Occupational licensing and employment laws regulate many professions as well as unskilled and semiskilled occupations. Examples of regulated occupations include alcohol servers, barbers and cosmetologists, body piercers, commercial fishers, contractors, drivers, embalmers, engineers, health care

workers, insurance adjusters, real estate professionals, tattoo artists, and waste management workers. Individuals with criminal histories may meet the competency requirements for these occupations through training, experience, or education, but may be disqualified from them based on their criminal history.

Certificates of restoration of opportunity help reduce some barriers to employment for adults and juveniles by providing an opportunity for individuals to become more employable and to more successfully reintegrate into society after they have served their sentence, demonstrated a period of law-abiding behavior consistent with successful reentry, and have turned their lives around following a conviction. Applicants for a certificate must also meet all other statutory licensing requirements.

Certificates of restoration of opportunity offer potential public and private employers or housing providers concrete and objective information about an individual under consideration for an opportunity. These certificates can facilitate the successful societal reintegration of individuals with a criminal history whose behavior demonstrates that they are taking responsibility for their past criminal conduct and pursuing a positive law-abiding future. A certificate of restoration of opportunity provides a process for people previously sentenced by a Washington court who have successfully changed their lives to seek a court document confirming their changed circumstances.

A certificate of restoration of opportunity does not affect any employer's or housing provider's discretion to individually assess every applicant and to hire or rent to the applicants of their choice. Employers will not have to forego hiring their chosen applicants because they face statutory bars that prevent obtaining the necessary occupational credentials.

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

(1) "Qualified applicant" means any adult or juvenile who meets the following requirements:

(a)(i) One year has passed from sentencing for those sentenced by a Washington state court to probation, or receiving a deferred sentence or other noncustodial sentencing for a misdemeanor or gross misdemeanor offense or an equivalent juvenile adjudication; or

(ii) Eighteen months have passed from release from total or partial confinement from a Washington prison or jail or juvenile facility for those sentenced by a Washington state court to incarceration for a misdemeanor or gross misdemeanor or an equivalent juvenile adjudication; or

(iii) Two years have passed from sentencing for those sentenced by a Washington state court to probation, or receiving a deferred sentence or other noncustodial sentencing for a class B or C felony or an equivalent juvenile adjudication; or

(iv) Two years have passed from release from total or partial confinement from a Washington prison or jail or juvenile facility for those sentenced by a Washington state court for a class B or C felony or an equivalent juvenile adjudication; or

(v) Five years have passed from sentencing for those sentenced by a Washington state court to probation, or receiving a deferred sentence or other noncustodial sentencing for a violent offense as defined in RCW 9.94A.030 or an equivalent juvenile adjudication; or

(vi) Five years have passed from release from total or partial confinement from a Washington prison or jail or juvenile facility for those sentenced by a Washington state court for a violent offense as defined in RCW 9.94A.030 or an equivalent juvenile adjudication;

(b) Is in compliance with or has completed all sentencing requirements imposed by a court including:

(i) Has paid in full all court-ordered legal financial obligations;

(ii) Is fully compliant with a payment plan for court-ordered legal financial obligations; or

(iii) Is out of compliance with a payment plan for court-ordered legal financial obligations but has established good cause with the court for any noncompliance with the payment plan;

(c) Has never been convicted of a class A felony, an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, a sex offense as defined in RCW 9.94A.030, a crime that includes sexual motivation pursuant to RCW 9.94A.835, 13.40.135, or 9.94A.535(3)(f), extortion in the first degree under RCW 9A.56.120, drive-by shooting under RCW 9A.36.045, vehicular assault under RCW 46.61.522(1) (a) or (b), or luring under RCW 9A.40.090, and is not required to register as a sex offender pursuant to RCW 9A.44.130; and

(d) Has not been arrested for nor convicted of a new crime and has no pending criminal charge, and there is no information presented to a qualified court that such a charge is imminent.

(2) "Qualified court" means any Washington superior court in the county where an applicant resides or that has sentenced or adjudicated the applicant. If the sentencing or adjudicating court was a court of limited jurisdiction then a qualified court is the superior court in the county of the applicant's conviction or adjudication.

NEW SECTION. **Sec. 3.** (1) Except as provided in this section, no state, county, or municipal department, board, officer, or agency authorized to assess the qualifications of any applicant for a license, certificate of authority, qualification to engage in the practice of a profession or business, or for admission to an examination to qualify for such a license or certificate may disqualify a qualified applicant, solely based on the applicant's criminal history, if the qualified applicant has obtained a certificate of restoration of opportunity and the applicant meets all other statutory and regulatory requirements, except as required by federal law or exempted under this subsection. Nothing in this section is interpreted as restoring or creating a means to restore any firearms rights or eligibility to obtain a firearm dealer license pursuant to RCW 9.41.110 or requiring the removal of a protection order.

(a)(i) Criminal justice agencies, as defined in RCW 10.97.030, and the Washington state bar association are exempt from this section.

(ii) This section does not apply to the licensing, certification, or qualification of the following professionals: Accountants, RCW 18.04.295; assisted living facilities employees, RCW 18.20.125; bail bond agents, RCW 18.185.020; escrow agents, RCW 18.44.241; long-term care workers, RCW 18.88B.080; nursing home administrators, RCW 18.52.071; nursing, chapter 18.79 RCW; physicians and physician assistants, chapters 18.71 and 18.71A RCW; private investigators, RCW 18.165.030; receivers, RCW 7.60.035;

teachers, chapters 28A.405 and 28A.410 RCW; notaries public, chapter 42.44 RCW; private investigators, chapter 18.165 RCW; real estate brokers and salespersons, chapters 18.85 and 18.86 RCW; security guards, chapter 18.170 RCW; and vulnerable adult care providers, RCW 43.43.842.

(iii) To the extent this section conflicts with the requirements for receipt of federal funding under the adoption and safe families act, 42 U.S.C. Sec. 671, this section does not apply.

(b) Unless otherwise addressed in statute, in cases where an applicant would be disqualified under RCW 43.20A.710, and the applicant has obtained a certificate of restoration of opportunity, the department of social and health services may, after review of relevant factors, including the nature and seriousness of the offense, time that has passed since conviction, changed circumstances since the offense occurred, and the nature of the employment or license sought, at its discretion:

(i) Allow the applicant to have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities if the applicant is otherwise qualified and suitable; or

(ii) Disqualify the applicant solely based on the applicant's criminal history.

(c) If the practice of a profession or business involves unsupervised contact with vulnerable adults, children, or individuals with mental illness or developmental disabilities, or populations otherwise defined by statute as vulnerable, the department of health may, after review of relevant factors, including the nature and seriousness of the offense, time that has passed since conviction, changed circumstances since the offense occurred, and the nature of the employment or license sought, at its discretion:

(i) Disqualify an applicant who has obtained a certificate of restoration of opportunity, for a license, certification, or registration to engage in the practice of a health care profession or business solely based on the applicant's criminal history; or

(ii) If such applicant is otherwise qualified and suitable, credential or credential with conditions an applicant who has obtained a certificate of restoration of opportunity for a license, certification, or registration to engage in the practice of a health care profession or business.

(d) The state of Washington, any of its counties, cities, towns, municipal corporations, or quasi-municipal corporations, the department of health, and its officers, employees, contractors, and agents are immune from suit in law, equity, or any action under the administrative procedure act based upon its exercise of discretion under this section. This section does not create a protected class; private right of action; any right, privilege, or duty; or change to any right, privilege, or duty existing under law. This section does not modify a licensing or certification applicant's right to a review of an agency's decision under the administrative procedure act or other applicable statute or agency rule. A certificate of restoration of opportunity does not remove or alter citizenship or legal residency requirements already in place for state agencies and employers.

(2) A qualified court has jurisdiction to issue a certificate of restoration of opportunity to a qualified applicant.

(a) A court must determine, in its discretion whether the certificate:

(i) Applies to all past criminal history; or

(ii) Applies only to the convictions or adjudications in the jurisdiction of the court.

(b) The certificate does not apply to any future criminal justice involvement that occurs after the certificate is issued.

(c) A court must determine whether to issue a certificate by determining whether the applicant is a qualified applicant as defined in section 2 of this act.

(3) An employer or housing provider may, in its sole discretion, determine whether to consider a certificate of restoration of opportunity issued under this chapter in making employment or rental decisions. An employer or housing provider is immune from suit in law, equity, or under the administrative procedure act for damages based upon its exercise of discretion under this section or the refusal to exercise such discretion. In any action at law against an employer or housing provider arising out of the employment of or provision of housing to the recipient of a certificate of restoration of opportunity, evidence of the crime for which a certificate of restoration of opportunity has been issued may not be introduced as evidence of negligence or intentionally tortious conduct on the part of the employer or housing provider. This subsection does not create a protected class, private right of action, any right, privilege, or duty, or to change any right, privilege, or duty existing under law related to employment or housing except as provided in RCW 7.60.035.

(4)(a) Department of social and health services: A certificate of restoration of opportunity does not apply to the state abuse and neglect registry. No finding of abuse, neglect, or misappropriation of property may be removed from the registry based solely on a certificate. The department must include such certificates as part of its criminal history record reports, qualifying letters, or other assessments pursuant to RCW 43.43.830 through 43.43.838. The department shall adopt rules to implement this subsection.

(b) Washington state patrol: The Washington state patrol is not required to remove any records based solely on a certificate of restoration of opportunity. The state patrol must include a certificate as part of its criminal history record report.

(c) Court records:

(i) A certificate of restoration of opportunity has no effect on any other court records, including records in the judicial information system. The court records related to a certificate of restoration of opportunity must be processed and recorded in the same manner as any other record.

(ii) The qualified court where the applicant seeks the certificate of restoration of opportunity must administer the court records regarding the certificate in the same manner as it does regarding all other proceedings.

(d) Effect in other judicial proceedings: A certificate of restoration of opportunity may only be submitted to a court to demonstrate that the individual met the specific requirements of this section and not for any other procedure, including evidence of character, reputation, or conduct. A certificate is not an equivalent procedure under Rule of Evidence 609(c).

(e) Department of health: The department of health must include a certificate of restoration of opportunity on its public web site if:

(i) Its web site includes an order, stipulation to informal disposition, or notice of decision related to the conviction identified in the certificate of restoration of opportunity; and

(ii) The credential holder has provided a certified copy of the certificate of restoration of opportunity to the department of health.

(5) In all cases, an applicant must provide notice to the prosecutor in the county where he or she seeks a certificate of restoration of opportunity of the pendency of such application. If the applicant has been sentenced by any other jurisdiction in the five years preceding the application for a certificate, the applicant must also notify the prosecuting attorney in those jurisdictions. The prosecutor in the county where an applicant applies for a certificate shall provide the court with a report of the applicant's criminal history.

(6) Application for a certificate of restoration of opportunity must be filed as a civil action.

(7) A superior court in the county in which the applicant resides may decline to consider the application for certificate of restoration of opportunity. If the superior court in which the applicant resides declines to consider the application, the court must dismiss the application without prejudice and the applicant may refile the application in another qualified court. The court must state the reason for the dismissal on the order. If the court determines that the applicant does not meet the required qualifications, then the court must dismiss the application without prejudice and state the reason(s) on the order. The superior court in the county of the applicant's conviction or adjudication may not decline to consider the application.

(8) Unless the qualified court determines that a hearing on an application for certificate of restoration is necessary, the court must decide without a hearing whether to grant the certificate of restoration of opportunity based on a review of the application filed by the applicant and pleadings filed by the prosecuting attorney.

(9) The clerk of the court in which the certificate of restoration of opportunity is granted shall transmit the certificate of restoration of opportunity to the Washington state patrol identification section, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol shall update its records to reflect the certificate of restoration of opportunity.

(10)(a) The administrative office of the courts shall develop and prepare instructions, forms, and an informational brochure designed to assist applicants applying for a certificate of restoration of opportunity.

(b) The instructions must include, at least, a sample of a standard application and a form order for a certificate of restoration of opportunity.

(c) The administrative office of the courts shall distribute a master copy of the instructions, informational brochure, and sample application and form order to all county clerks and a master copy of the application and order to all superior courts by January 1, 2017.

(d) The administrative office of the courts shall determine the significant non-English-speaking or limited English-speaking populations in the state. The administrator shall then arrange for translation of the instructions, which shall contain a sample of the standard application and order, and the informational brochure into languages spoken by those significant non-English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to the county clerks by January 1, 2017.

(e) The administrative office of the courts shall update the instructions, brochures, standard application and order, and translations when changes in the law make an update necessary.

Sec. 4. RCW 10.97.030 and 2012 c 125 s 1 are each amended to read as follows:

For purposes of this chapter, the definitions of terms in this section shall apply.

(1) "Criminal history record information" means information contained in records collected by criminal justice agencies, other than courts, on individuals, consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, including acquittals by reason of insanity, dismissals based on lack of competency, sentences, correctional supervision, and release.

The term includes any issued certificates of restoration of opportunities and any information contained in records maintained by or obtained from criminal justice agencies, other than courts, which records provide individual identification of a person together with any portion of the individual's record of involvement in the criminal justice system as an alleged or convicted offender, except:

(a) Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(b) Original records of entry maintained by criminal justice agencies to the extent that such records are compiled and maintained chronologically and are accessible only on a chronological basis;

(c) Court indices and records of public judicial proceedings, court decisions, and opinions, and information disclosed during public judicial proceedings;

(d) Records of traffic violations which are not punishable by a maximum term of imprisonment of more than ninety days;

(e) Records of any traffic offenses as maintained by the department of licensing for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses and pursuant to RCW 46.52.130;

(f) Records of any aviation violations or offenses as maintained by the department of transportation for the purpose of regulating pilots or other aviation operators, and pursuant to RCW 47.68.330;

(g) Announcements of executive clemency;

(h) Intelligence, analytical, or investigative reports and files.

(2) "Nonconviction data" consists of all criminal history record information relating to an incident which has not led to a conviction or other disposition adverse to the subject, and for which proceedings are no longer actively pending. There shall be a rebuttable presumption that proceedings are no longer actively pending if more than one year has elapsed since arrest, citation, charge, or service of warrant and no disposition has been entered.

(3) "Conviction record" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject.

(4) "Conviction or other disposition adverse to the subject" means any disposition of charges other than: (a) A decision not to prosecute; (b) a dismissal; or (c) acquittal; with the following exceptions, which shall be considered dispositions adverse to the subject: An acquittal due to a finding of not guilty by

reason of insanity and a dismissal by reason of incompetency, pursuant to chapter 10.77 RCW; and a dismissal entered after a period of probation, suspension, or deferral of sentence.

(5) "Criminal justice agency" means: (a) A court; or (b) a government agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

(6) "The administration of criminal justice" means performance of any of the following activities: Detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The term also includes criminal identification activities and the collection, storage, dissemination of criminal history record information, and the compensation of victims of crime.

(7) "Disposition" means the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.

(8) "Dissemination" means disclosing criminal history record information or disclosing the absence of criminal history record information to any person or agency outside the agency possessing the information, subject to the following exceptions:

(a) When criminal justice agencies jointly participate in the maintenance of a single recordkeeping department as an alternative to maintaining separate records, the furnishing of information by that department to personnel of any participating agency is not a dissemination;

(b) The furnishing of information by any criminal justice agency to another for the purpose of processing a matter through the criminal justice system, such as a police department providing information to a prosecutor for use in preparing a charge, is not a dissemination;

(c) The reporting of an event to a recordkeeping agency for the purpose of maintaining the record is not a dissemination.

Sec. 5. RCW 14.20.090 and 2010 c 8 s 5012 are each amended to read as follows:

The secretary shall refuse to issue an aircraft dealer's license or shall suspend or revoke an aircraft dealer's license whenever he or she has reasonable grounds to believe that the dealer has:

(1) Forged or altered any federal certificate, permit, rating, or license relating to ownership and airworthiness of an aircraft;

(2) Sold or disposed of an aircraft which he or she knows or has reason to know has been stolen or appropriated without the consent of the owner;

(3) Willfully misrepresented any material fact in the application for an aircraft dealer's license, aircraft dealer's certificate, or registration certificate;

(4) Willfully withheld or caused to be withheld from a purchaser of an aircraft any document referred to in subsection (1) of this section if applicable, or an affidavit to the effect that there are no liens, mortgages, or encumbrances of any type on the aircraft other than noted thereon, if the document or affidavit has been requested by the purchaser;

(5) Suffered or permitted the cancellation of his or her bond or the exhaustion of the penalty thereof;

(6) Used an aircraft dealer's certificate for any purpose other than those permitted by this chapter or RCW 47.68.250 and 82.48.100;

(7) Except as provided in section 3 of this act, been adjudged guilty of a crime that directly relates to the business of an aircraft dealer and the time elapsed since the conviction is less than ten years, or had a judgment entered against the dealer within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purpose of this section, the term "adjudged guilty" means, in addition to a final conviction in either a state or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the imposition of the sentence is deferred or the penalty is suspended.

Sec. 6. RCW 9.96A.020 and 2009 c 396 s 7 are each amended to read as follows:

(1) Subject to the exceptions in subsections (3) through (5) of this section, and unless there is another provision of law to the contrary, a person is not disqualified from employment by the state of Washington or any of its counties, cities, towns, municipal corporations, or quasi-municipal corporations, nor is a person disqualified to practice, pursue or engage in any occupation, trade, vocation, or business for which a license, permit, certificate or registration is required to be issued by the state of Washington or any of its counties, cities, towns, municipal corporations, or quasi-municipal corporations solely because of a prior conviction of a felony. However, this section does not preclude the fact of any prior conviction of a crime from being considered.

(2) A person may be denied employment by the state of Washington or any of its counties, cities, towns, municipal corporations, or quasi-municipal corporations, or a person may be denied a license, permit, certificate or registration to pursue, practice or engage in an occupation, trade, vocation, or business by reason of the prior conviction of a felony if the felony for which he or she was convicted directly relates to the position of employment sought or to the specific occupation, trade, vocation, or business for which the license, permit, certificate or registration is sought, and the time elapsed since the conviction is less than ten years, except as provided in section 3 of this act. However, for positions in the county treasurer's office, a person may be disqualified from employment because of a prior guilty plea or conviction of a felony involving embezzlement or theft, even if the time elapsed since the guilty plea or conviction is ten years or more.

(3) A person is disqualified for any certificate required or authorized under chapters 28A.405 or 28A.410 RCW, because of a prior guilty plea or the conviction of a felony crime specified under RCW 28A.400.322, even if the time elapsed since the guilty plea or conviction is ten years or more.

(4) A person is disqualified from employment by school districts, educational service districts, and their contractors hiring employees who will have regularly scheduled unsupervised access to children, because of a prior guilty plea or conviction of a felony crime specified under RCW 28A.400.322, even if the time elapsed since the guilty plea or conviction is ten years or more, except as provided in section 3 of this act.

(5) The provisions of this chapter do not apply to issuance of licenses or credentials for professions regulated under chapter 18.130 RCW.

(6) Subsections (3) and (4) of this section as they pertain to felony crimes specified under RCW 28A.400.322(1) apply to a person applying for a

certificate or for employment on or after July 25, 1993, and before July 26, 2009. Subsections (3) and (4) of this section as they pertain to all felony crimes specified under RCW 28A.400.322(2) apply to a person applying for a certificate or for employment on or after July 26, 2009. Subsection (5) of this section only applies to a person applying for a license or credential on or after June 12, 2008.

Sec. 7. RCW 9.96A.050 and 1973 c 135 s 5 are each amended to read as follows:

Except as provided in section 3 of this act, the provisions of this chapter shall prevail over any other provisions of law which purport to govern the denial of licenses, permits, certificates, registrations, or other means to engage in a business, on the grounds of a lack of good moral character, or which purport to govern the suspension or revocation of such a license, permit, certificate, or registration on the grounds of conviction of a crime.

Sec. 8. RCW 18.11.160 and 2002 c 86 s 209 are each amended to read as follows:

(1) Except as provided in section 3 of this act, no license shall be issued by the department to any person who has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy, fraud, theft, receiving stolen goods, unlawful issuance of checks or drafts, or other similar offense, or to any partnership of which the person is a member, or to any association or corporation of which the person is an officer or in which as a stockholder the person has or exercises a controlling interest either directly or indirectly.

(2) In addition to the unprofessional conduct described in RCW 18.235.130, the director has the authority to take disciplinary action for any of the following conduct, acts, or conditions:

(a) Underreporting to the department of sales figures so that the auctioneer or auction company surety bond is in a lower amount than required by law;

(b) Nonpayment of an administrative fine prior to renewal of a license; and

(c) Any other violations of this chapter.

(3) The department shall 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 automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 9. RCW 18.39.410 and 2005 c 365 s 24 are each amended to read as follows:

In addition to the unprofessional conduct described in RCW 18.235.130, the board may take disciplinary action and may impose any of the sanctions specified in RCW 18.235.110 for the following conduct, acts, or conditions, except as provided in section 3 of this act:

(1) Solicitation of human remains by a licensee, registrant, endorsement, or permit holder, or agent, assistant, or employee of the licensee, registrant, endorsement, or permit holder whether the solicitation occurs after death or

while death is impending. This chapter does not prohibit general advertising or the sale of prearrangement funeral service contracts;

(2) Solicitation may include employment of solicitors, payment of commission, bonus, rebate, or any form of gratuity or payment of a finders fee, referral fee, or other consideration given for the purpose of obtaining or providing the services for human remains or where death is impending;

(3) Acceptance by a licensee, registrant, endorsement, or permit holder or other employee of a funeral establishment of a commission, bonus, rebate, or gratuity in consideration of directing business to a cemetery, crematory, mausoleum, columbarium, florist, or other person providing goods and services to the disposition of human remains;

(4) Using a casket or part of a casket that has previously been used as a receptacle for, or in connection with, the burial or other disposition of human remains without the written consent of the person lawfully entitled to control the disposition of remains of the deceased person in accordance with RCW 68.50.160. This subsection does not prohibit the use of rental caskets, such as caskets of which the outer shell portion is rented and the inner insert that contains the human remains is purchased and used for the disposition, that are disclosed as such in the statement of funeral goods and services;

(5) Violation of a state law, municipal law, or county ordinance or regulation affecting the handling, custody, care, transportation, or disposition of human remains, except as provided in section 3 of this act;

(6) Refusing to promptly surrender the custody of human remains upon the expressed order of the person lawfully entitled to its custody under RCW 68.50.160;

(7) Selling, or offering for sale, a share, certificate, or an interest in the business of a funeral establishment, or in a corporation, firm, or association owning or operating a funeral establishment that promises or purports to give to purchasers a right to the services of a licensee, registrant, endorsement, or permit holder at a charge or cost less than offered or given to the public;

(8) Violation of any state or federal statute or administrative ruling relating to funeral practice, except as provided in section 3 of this act;

(9) Knowingly concealing information concerning a violation of this title.

Sec. 10. RCW 18.64.165 and 2013 c 19 s 14 are each amended to read as follows:

The commission shall have the power to refuse, suspend, or revoke the license of any manufacturer, wholesaler, pharmacy, shopkeeper, itinerant vendor, peddler, poison distributor, health care entity, or precursor chemical distributor upon proof that:

(1) The license was procured through fraud, misrepresentation, or deceit;

(2) Except as provided in section 3 of this act, the licensee has violated or has permitted any employee to violate any of the laws of this state or the United States relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the commission or has been convicted of a felony.

Sec. 11. RCW 18.108.085 and 2012 c 137 s 14 are each amended to read as follows:

(1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW necessary to implement this chapter;

(b) Set all license, certification, examination, and renewal fees in accordance with RCW 43.70.250;

(c) Establish forms and procedures necessary to administer this chapter;

(d) Issue a massage practitioner's license to any applicant who has met the education, training, and examination requirements for licensure and deny licensure to applicants who do not meet the requirements of this chapter;

(e) Issue a reflexology certification to any applicant who has met the requirements for certification and deny certification to applicants who do not meet the requirements of this chapter; and

(f) Hire clerical, administrative, and investigative staff as necessary to implement this chapter.

(2) The Uniform Disciplinary Act, chapter 18.130 RCW, governs unlicensed and uncertified practice, the issuance and denial of licenses and certifications, and the disciplining of persons under this chapter. The secretary shall be the disciplining authority under this chapter.

(3) Any license or certification issued under this chapter to a person who is or has been convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances shall automatically be revoked by the secretary upon receipt of a certified copy of the court documents reflecting such conviction, except as provided in section 3 of this act. No further hearing or procedure is required, and the secretary has no discretion with regard to the revocation of the license or certification. The revocation shall be effective even though such conviction may be under appeal, or the time period for such appeal has not elapsed. However, upon presentation of a final appellate decision overturning such conviction, the license or certification shall be reinstated, unless grounds for disciplinary action have been found under chapter 18.130 RCW. No license or certification may be granted under this chapter to any person who has been convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances within the eight years immediately preceding the date of application, except as provided in section 3 of this act. For purposes of this subsection, "convicted" does not include a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence, but does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(4) The secretary shall keep an official record of all proceedings under this chapter, a part of which record shall consist of a register of all applicants for licensure or certification under this chapter, with the result of each application.

Sec. 12. RCW 18.130.055 and 2008 c 134 s 19 are each amended to read as follows:

(1) The disciplining authority may deny an application for licensure or grant a license with conditions if the applicant:

(a) Has had his or her license to practice any health care profession suspended, revoked, or restricted, by competent authority in any state, federal, or foreign jurisdiction;

(b) Has committed any act defined as unprofessional conduct for a license holder under RCW 18.130.180, except as provided in section 3 of this act;

(c) Has been convicted or is subject to current prosecution or pending charges of a crime involving moral turpitude or a crime identified in RCW 43.43.830, except as provided in section 3 of this act. For purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the prosecution or sentence has been deferred or suspended. At the request of an applicant for an original license whose conviction is under appeal, the disciplining authority may defer decision upon the application during the pendency of such a prosecution or appeal;

(d) Fails to prove that he or she is qualified in accordance with the provisions of this chapter, the chapters identified in RCW 18.130.040(2), or the rules adopted by the disciplining authority; or

(e) Is not able to practice with reasonable skill and safety to consumers by reason of any mental or physical condition.

(i) The disciplining authority may require the applicant, at his or her own expense, to submit to a mental, physical, or psychological examination by one or more licensed health professionals designated by the disciplining authority. The disciplining authority shall provide written notice of its requirement for a mental or physical examination that includes a statement of the specific conduct, event, or circumstances justifying an examination and a statement of the nature, purpose, scope, and content of the intended examination. If the applicant fails to submit to the examination or provide the results of the examination or any required waivers, the disciplining authority may deny the application.

(ii) An applicant governed by this chapter is deemed to have given consent to submit to a mental, physical, or psychological examination when directed in writing by the disciplining authority and further to have waived all objections to the admissibility or use of the examining health professional's testimony or examination reports by the disciplining authority on the grounds that the testimony or reports constitute privileged communications.

(2) The provisions of RCW 9.95.240 and chapter 9.96A RCW do not apply to a decision to deny a license under this section.

(3) The disciplining authority shall give written notice to the applicant of the decision to deny a license or grant a license with conditions in response to an application for a license. The notice must state the grounds and factual basis for the action and be served upon the applicant.

(4) A license applicant who is aggrieved by the decision to deny the license or grant the license with conditions has the right to an adjudicative proceeding. The application for adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, and be served on and received by the department within twenty-eight days of the decision. The license applicant has the burden to establish, by a preponderance of evidence, that the license applicant is qualified in accordance with the provisions of this chapter, the chapters identified in RCW 18.130.040(2), and the rules adopted by the disciplining authority.

Sec. 13. RCW 18.130.050 and 2013 c 109 s 1 and 2013 c 86 s 2 are each reenacted and amended to read as follows:

Except as provided in RCW 18.130.062, the disciplining authority has the following authority:

(1) To adopt, amend, and rescind such rules as are deemed necessary to carry out this chapter;

(2) To investigate all complaints or reports of unprofessional conduct as defined in this chapter;

(3) To hold hearings as provided in this chapter;

(4) To issue subpoenas and administer oaths in connection with any investigation, consideration of an application for license, hearing, or proceeding held under this chapter;

(5) To take or cause depositions to be taken and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;

(6) To compel attendance of witnesses at hearings;

(7) In the course of investigating a complaint or report of unprofessional conduct, to conduct practice reviews and to issue citations and assess fines for failure to produce documents, records, or other items in accordance with RCW 18.130.230;

(8) To take emergency action ordering summary suspension of a license, or restriction or limitation of the license holder's practice pending proceedings by the disciplining authority. Within fourteen days of a request by the affected license holder, the disciplining authority must provide a show cause hearing in accordance with the requirements of RCW 18.130.135. In addition to the authority in this subsection, a disciplining authority shall, except as provided in section 3 of this act:

(a) Consistent with RCW 18.130.370, issue a summary suspension of the license or temporary practice permit of a license holder prohibited from practicing a health care profession in another state, federal, or foreign jurisdiction because of an act of unprofessional conduct that is substantially equivalent to an act of unprofessional conduct prohibited by this chapter or any of the chapters specified in RCW 18.130.040. The summary suspension remains in effect until proceedings by the Washington disciplining authority have been completed;

(b) Consistent with RCW 18.130.400, issue a summary suspension of the license or temporary practice permit if, under RCW 74.39A.051, the license holder is prohibited from employment in the care of vulnerable adults based upon a department of social and health services' final finding of abuse or neglect of a minor or abuse, abandonment, neglect, or financial exploitation of a vulnerable adult. The summary suspension remains in effect until proceedings by the disciplining authority have been completed;

(9) To conduct show cause hearings in accordance with RCW 18.130.062 or 18.130.135 to review an action taken by the disciplining authority to suspend a license or restrict or limit a license holder's practice pending proceedings by the disciplining authority;

(10) To use a presiding officer as authorized in RCW 18.130.095(3) or the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. Disciplining authorities identified in RCW 18.130.040(2) shall make the final decision regarding disposition of the license unless the disciplining authority elects to delegate in writing the final decision to the presiding officer. Disciplining authorities identified in RCW 18.130.040(2)(b) may not delegate the final decision regarding disposition of the license or imposition of sanctions

to a presiding officer in any case pertaining to standards of practice or where clinical expertise is necessary, including deciding any motion that results in dismissal of any allegation contained in the statement of charges. Presiding officers acting on behalf of the secretary shall enter initial orders. The secretary may, by rule, provide that initial orders in specified classes of cases may become final without further agency action unless, within a specified time period:

(a) The secretary upon his or her own motion determines that the initial order should be reviewed; or

(b) A party to the proceedings files a petition for administrative review of the initial order;

(11) To use individual members of the boards to direct investigations and to authorize the issuance of a citation under subsection (7) of this section. However, the member of the board shall not subsequently participate in the hearing of the case;

(12) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(13) To contract with license holders or other persons or organizations to provide services necessary for the monitoring and supervision of license holders who are placed on probation, whose professional activities are restricted, or who are for any authorized purpose subject to monitoring by the disciplining authority;

(14) To adopt standards of professional conduct or practice;

(15) To grant or deny license applications, and in the event of a finding of unprofessional conduct by an applicant or license holder, to impose any sanction against a license applicant or license holder provided by this chapter. After January 1, 2009, all sanctions must be issued in accordance with RCW 18.130.390;

(16) To restrict or place conditions on the practice of new licensees in order to protect the public and promote the safety of and confidence in the health care system;

(17) To designate individuals authorized to sign subpoenas and statements of charges;

(18) To establish panels consisting of three or more members of the board to perform any duty or authority within the board's jurisdiction under this chapter;

(19) To review and audit the records of licensed health facilities' or services' quality assurance committee decisions in which a license holder's practice privilege or employment is terminated or restricted. Each health facility or service shall produce and make accessible to the disciplining authority the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to discovery or introduction into evidence in any civil action pursuant to RCW 70.41.200(3).

Sec. 14. RCW 18.235.110 and 2007 c 256 s 18 are each amended to read as follows:

(1) Upon finding unprofessional conduct, <u>except as provided in section 3 of this act,</u> the disciplinary authority may issue an order providing for one or any combination of the following:

(a) Revocation of the license for an interval of time;

(b) Suspension of the license for a fixed or indefinite term;

(c) Restriction or limitation of the practice;

(d) Satisfactory completion of a specific program of remedial education or treatment;

(e) Monitoring of the practice in a manner directed by the disciplinary authority;

(f) Censure or reprimand;

(g) Compliance with conditions of probation for a designated period of time;

(h) Payment of a fine for each violation found by the disciplinary authority, not to exceed five thousand dollars per violation. The disciplinary authority must consider aggravating or mitigating circumstances in assessing any fine. Funds received must be deposited in the related program account;

(i) Denial of an initial or renewal license application for an interval of time; or

(j) Other corrective action.

(2) The disciplinary authority may require reimbursement to the disciplinary authority for the investigative costs incurred in investigating the matter that resulted in issuance of an order under this section, but only if any of the sanctions in subsection (1)(a) through (j) of this section is ordered.

(3) Any of the actions under this section may be totally or partly stayed by the disciplinary authority. In determining what action is appropriate, the disciplinary authority must first consider what sanctions are necessary to protect the public health, safety, or welfare. Only after these provisions have been made may the disciplinary authority consider and include in the order requirements designed to rehabilitate the license holder or applicant. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant.

(4) The licensee or applicant may enter into a stipulated disposition of charges that includes one or more of the sanctions of this section, but only after a statement of charges has been issued and the licensee has been afforded the opportunity for a hearing and has elected on the record to forego such a hearing. The stipulation shall either contain one or more specific findings of unprofessional conduct or a statement by the licensee acknowledging that evidence is sufficient to justify one or more specified findings of unprofessional conduct. The stipulations entered into under this subsection are considered formal disciplinary action for all purposes.

Sec. 15. RCW 18.145.120 and 1995 c 27 s 11 are each amended to read as follows:

(1) Upon receipt of complaints against court reporters, the director shall investigate and evaluate the complaint to determine if disciplinary action is appropriate. The director shall hold disciplinary hearings pursuant to chapter 34.05 RCW.

(2) After a hearing conducted under chapter 34.05 RCW and upon a finding that a certificate holder or applicant has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, <u>except as provided in section 3 of this act,</u> the director may issue an order providing for one or any combination of the following:

(a) Revocation of the certification;

(b) Suspension of the certificate for a fixed or indefinite term;

(c) Restriction or limitation of the practice;

(d) Requiring the satisfactory completion of a specific program or remedial education;

(e) The monitoring of the practice by a supervisor approved by the director;

(f) Censure or reprimand;

(g) Compliance with conditions of probation for a designated period of time;

(h) Denial of the certification request;

(i) Corrective action;

(j) Refund of fees billed to or collected from the consumer.

Any of the actions under this section may be totally or partly stayed by the director. In determining what action is appropriate, the director shall consider sanctions necessary to protect the public, after which the director may consider and include in the order requirements designed to rehabilitate the certificate holder or applicant. All costs associated with compliance to orders issued under this section are the obligation of the certificate holder or applicant.

Sec. 16. RCW 9.94A.030 and 2015 c 287 s 1 and 2015 c 261 s 12 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise

perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to section 3 of this act.

(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) "Electronic monitoring" means tracking the location of an individual, whether pretrial or posttrial, through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency

of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

(25) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

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

(26) "Felony traffic offense" means:

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

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

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

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

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence twenty-four hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines,

and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(32) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

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

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

(b) Assault in the second degree;

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

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

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

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) 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.

(34) "Nonviolent offense" means an offense which is not a violent offense.

(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 misdemeanant or gross misdemeanant probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(36) "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.

(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.

(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 (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.

(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.

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

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

(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.

(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.

(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.

(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.

(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.

(47) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

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

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

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

(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.

(49) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(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.

(51) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(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.

(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.

(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.

(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.

(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.

(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.

(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. 17. RCW 18.160.080 and 1997 c 58 s 834 are each amended to read as follows:

(1) The state director of fire protection may refuse to issue or renew or may suspend or revoke the privilege of a licensed fire protection sprinkler system contractor or the certificate of a certificate of competency holder to engage in the fire protection sprinkler system business or in lieu thereof, establish penalties as prescribed by Washington state law, for any of the following reasons:

(a) Gross incompetency or gross negligence in the preparation of technical drawings, installation, repair, alteration, maintenance, inspection, service, or addition to fire protection sprinkler systems;

(b) Except as provided in section 3 of this act, conviction of a felony;

(c) Fraudulent or dishonest practices while engaging in the fire protection sprinkler system((~~s~~)) business;

(d) Use of false evidence or misrepresentation in an application for a license or certificate of competency;

(e) Permitting his or her license to be used in connection with the preparation of any technical drawings which have not been prepared by him or her personally or under his or her immediate supervision, or in violation of this chapter; or

(f) Knowingly violating any provisions of this chapter or the regulations issued thereunder.

(2) The state director of fire protection shall revoke the license of a licensed fire protection sprinkler system contractor or the certificate of a certificate of competency holder who engages in the fire protection sprinkler system business while the license or certificate of competency is suspended.

(3) The state director of fire protection shall immediately suspend any license or certificate issued under this chapter if the holder has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for issuance or reinstatement during the suspension, issuance or reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

(4) Any licensee or certificate of competency holder who is aggrieved by an order of the state director of fire protection suspending or revoking a license may, within thirty days after notice of such suspension or revocation, appeal

under chapter 34.05 RCW. This subsection does not apply to actions taken under subsection (3) of this section.

Sec. 18. RCW 18.130.160 and 2008 c 134 s 10 are each amended to read as follows:

Upon a finding, after hearing, that a license holder has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the disciplining authority shall issue an order including sanctions adopted in accordance with the schedule adopted under RCW 18.130.390 giving proper consideration to any prior findings of fact under RCW 18.130.110, any stipulations to informal disposition under RCW 18.130.172, and any action taken by other in-state or out-of-state disciplining authorities. The order must provide for one or any combination of the following, as directed by the schedule, except as provided in section 3 of this act:

(1) Revocation of the license;

(2) Suspension of the license for a fixed or indefinite term;

(3) Restriction or limitation of the practice;

(4) Requiring the satisfactory completion of a specific program of remedial education or treatment;

(5) The monitoring of the practice by a supervisor approved by the disciplining authority;

(6) Censure or reprimand;

(7) Compliance with conditions of probation for a designated period of time;

(8) Payment of a fine for each violation of this chapter, not to exceed five thousand dollars per violation. Funds received shall be placed in the health professions account;

(9) Denial of the license request;

(10) Corrective action;

(11) Refund of fees billed to and collected from the consumer;

(12) A surrender of the practitioner's license in lieu of other sanctions, which must be reported to the federal data bank.

Any of the actions under this section may be totally or partly stayed by the disciplining authority. Safeguarding the public's health and safety is the paramount responsibility of every disciplining authority. In determining what action is appropriate, the disciplining authority must consider the schedule adopted under RCW 18.130.390. Where the schedule allows flexibility in determining the appropriate sanction, the disciplining authority must first consider what sanctions are necessary to protect or compensate the public. Only after such provisions have been made may the disciplining authority consider and include in the order requirements designed to rehabilitate the license holder. All costs associated with compliance with orders issued under this section are the obligation of the license holder. The disciplining authority may order permanent revocation of a license if it finds that the license holder can never be rehabilitated or can never regain the ability to practice with reasonable skill and safety.

Surrender or permanent revocation of a license under this section is not subject to a petition for reinstatement under RCW 18.130.150.

The disciplining authority may determine that a case presents unique circumstances that the schedule adopted under RCW 18.130.390 does not

adequately address. The disciplining authority may deviate from the schedule adopted under RCW 18.130.390 when selecting appropriate sanctions, but the disciplining authority must issue a written explanation of the basis for not following the schedule.

The license holder may enter into a stipulated disposition of charges that includes one or more of the sanctions of this section, but only after a statement of charges has been issued and the license holder has been afforded the opportunity for a hearing and has elected on the record to forego such a hearing. The stipulation shall either contain one or more specific findings of unprofessional conduct or inability to practice, or a statement by the license holder acknowledging that evidence is sufficient to justify one or more specified findings of unprofessional conduct or inability to practice. The stipulation entered into pursuant to this subsection shall be considered formal disciplinary action for all purposes.

NEW SECTION. **Sec. 19.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 20.** 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. 21.** Sections 2 and 3 of this act constitute a new chapter in Title 9 RCW.

Passed by the House February 16, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 82

[Engrossed House Bill 1752]

COUNTY SHERIFFS' OFFICES--CIVIL SERVICE COMMISSIONS--CHIEF EXAMINER--RESIDENCY

AN ACT Relating to qualifications for chief examiners; and amending RCW 41.14.050.

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

Sec. 1. RCW 41.14.050 and 2007 c 12 s 1 are each amended to read as follows:

Immediately after appointment the commission shall organize by electing one of its members as chair and shall hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of its duties.

The commission shall appoint a chief examiner who shall also serve as secretary of the commission and such assistants as may be necessary. The

commission has supervisory responsibility over the chief examiner. The chief examiner shall keep the records for the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe.

The chief examiner shall be appointed as a result of competitive examination, which examination must be open to all properly qualified citizens of the county or of an adjacent county: PROVIDED, That no appointee of the commission, either as chief examiner or as an assistant to the chief examiner, shall be an employee of the sheriff's department. The chief examiner may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the classified service.

Passed by the House February 11, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 83

[House Bill 1858]

ELECTION MATERIAL--NAMES OF COUNTY AUDITORS AND SECRETARY OF STATE

AN ACT Relating to prohibiting the names of county auditors and the secretary of state from being included on ballot envelopes and in voters' pamphlets when running for reelection; and amending RCW 29A.32.070, 29A.32.241, and 29A.40.091.

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

Sec. 1. RCW 29A.32.070 and 2009 c 415 s 5 are each amended to read as follows:

The secretary of state shall determine the format and layout of the voters' pamphlet published under RCW 29A.32.010. The secretary of state shall print the pamphlet in clear, readable type on a size, quality, and weight of paper that in the judgment of the secretary of state best serves the voters. The pamphlet must contain a table of contents. Measures and arguments must be printed in the order specified by RCW 29A.72.290.

The secretary of state's name may not appear in the voters' pamphlet in his or her official capacity if the secretary is a candidate for office during the same year. His or her name may only be included as part of the information normally included for candidates.

The voters' pamphlet must provide the following information for each statewide issue on the ballot except measures for an advisory vote of the people whose requirements are provided in subsection (11) of this section:

(1) The legal identification of the measure by serial designation or number;

(2) The official ballot title of the measure;

(3) A statement prepared by the attorney general explaining the law as it presently exists;

(4) A statement prepared by the attorney general explaining the effect of the proposed measure if it becomes law;

(5) The fiscal impact statement prepared under RCW 29A.72.025;

(6) The total number of votes cast for and against the measure in the senate and house of representatives, if the measure has been passed by the legislature;

(7) An argument advocating the voters' approval of the measure together with any statement in rebuttal of the opposing argument;

(8) An argument advocating the voters' rejection of the measure together with any statement in rebuttal of the opposing argument;

(9) Each argument or rebuttal statement must be followed by the names of the committee members who submitted them, and may be followed by a telephone number that citizens may call to obtain information on the ballot measure;

(10) The full text of the measure;

(11) Two pages shall be provided in the general election voters' pamphlet for each measure for an advisory vote of the people under RCW 43.135.041 and shall consist of the serial number assigned by the secretary of state under RCW 29A.72.040, the short description formulated by the attorney general under RCW 29A.72.283, the tax increase's most up-to-date ten-year cost projection, including a year-by-year breakdown, by the office of financial management under RCW 43.135.031, and the names of the legislators, and their contact information, and how they voted on the increase upon final passage so they can provide information to, and answer questions from, the public. For the purposes of this subsection, "names of legislators, and their contact information" includes each legislator's position (senator or representative), first name, last name, party affiliation (for example, Democrat or Republican), city or town they live in, office phone number, and office email address.

Sec. 2. RCW 29A.32.241 and 2011 c 10 s 29 are each amended to read as follows:

(1) The local voters' pamphlet shall include but not be limited to the following:

((~~(1)~~))(a) Appearing on the cover, the words "official local voters' pamphlet," the name of the jurisdiction producing the pamphlet, and the date of the election or primary;

((~~(2)~~))(b) A list of jurisdictions that have measures or candidates in the pamphlet;

((~~(3)~~))(c) Information on how a person may register to vote and obtain a ballot;

((~~(4)~~))(d) The text of each measure accompanied by an explanatory statement prepared by the prosecuting attorney for any county measure or by the attorney for the jurisdiction submitting the measure if other than a county measure. All explanatory statements for city, town, or district measures not approved by the attorney for the jurisdiction submitting the measure shall be reviewed and approved by the county prosecuting attorney or city attorney, when applicable, before inclusion in the pamphlet;

((~~(5)~~))(e) The arguments for and against each measure submitted by committees selected pursuant to RCW 29A.32.280; and

((~~(6)~~))(f) For partisan primary elections, information on how to vote the applicable ballot format and an explanation that minor political party candidates and independent candidates will appear only on the general election ballot.

(2) The county auditor's name may not appear in the local voters' pamphlet in his or her official capacity if the county auditor is a candidate for office during

the same year. His or her name may only be included as part of the information normally included for candidates.

Sec. 3. RCW 29A.40.091 and 2013 c 11 s 49 are each amended to read as follows:

(1) The county auditor shall send each voter a ballot, a security envelope in which to conceal the ballot after voting, a larger envelope in which to return the security envelope, a declaration that the voter must sign, and instructions on how to obtain information about the election, how to mark the ballot, and how to return the ballot to the county auditor.

(2) The voter must swear under penalty of perjury that he or she meets the qualifications to vote, and has not voted in any other jurisdiction at this election. The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and it is illegal to cast a ballot or sign a ballot declaration on behalf of another voter. The ballot materials must provide space for the voter to sign the declaration, indicate the date on which the ballot was voted, and include a telephone number.

(3) For overseas and service voters, the signed declaration constitutes the equivalent of a voter registration. Return envelopes for overseas and service voters must enable the ballot to be returned postage free if mailed through the United States postal service, United States armed forces postal service, or the postal service of a United States foreign embassy under 39 U.S.C. 3406.

(4) The voter must be instructed to either return the ballot to the county auditor no later than 8:00 p.m. the day of the election or primary, or mail the ballot to the county auditor with a postmark no later than the day of the election or primary. Service and overseas voters must be provided with instructions and a privacy sheet for returning the ballot and signed declaration by fax or email. A voted ballot and signed declaration returned by fax or email must be received by 8:00 p.m. on the day of the election or primary.

(5) The county auditor's name may not appear on the security envelope, the return envelope, or on any voting instructions or materials included with the ballot if he or she is a candidate for office during the same year.

Passed by the House February 11, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 84

[Engrossed House Bill 1918]

OFF-ROAD, NONHIGHWAY, AND WHEELED ALL-TERRAIN VEHICLES--VARIOUS PROVISIONS

AN ACT Relating to provisions applicable to off-road, nonhighway, and wheeled all-terrain vehicles and their drivers; amending RCW 38.52.180, 46.09.320, 46.09.442, 46.09.457, and 46.19.030; and providing an effective date.

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

Sec. 1. RCW 38.52.180 and 2011 c 336 s 791 are each amended to read as follows:

(1) There shall be no liability on the part of anyone including any person, partnership, corporation, the state of Washington or any political subdivision thereof who owns or maintains any building or premises which have been designated by a local organization for emergency management as a shelter from destructive operations or attacks by enemies of the United States for any injuries sustained by any person while in or upon said building or premises, as a result of the condition of said building or premises or as a result of any act or omission, or in any way arising from the designation of such premises as a shelter, when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority, except for an act of willful negligence by such owner or occupant or his or her servants, agents, or employees.

(2) All legal liability for damage to property or injury or death to persons (except an emergency worker, regularly enrolled and acting as such), caused by acts done or attempted during or while traveling to or from an emergency or disaster, search and rescue, or training or exercise authorized by the department in preparation for an emergency or disaster or search and rescue, under the color of this chapter in a bona fide attempt to comply therewith, except as provided in subsections (3), (4), and (5) of this section regarding covered volunteer emergency workers, shall be the obligation of the state of Washington. Suits may be instituted and maintained against the state for the enforcement of such liability, or for the indemnification of persons appointed and regularly enrolled as emergency workers while actually engaged in emergency management duties, or as members of any agency of the state or political subdivision thereof engaged in emergency management activity, or their dependents, for damage done to their private property, or for any judgment against them for acts done in good faith in compliance with this chapter: PROVIDED, That the foregoing shall not be construed to result in indemnification in any case of willful misconduct, gross negligence, or bad faith on the part of any agent of emergency management: PROVIDED, That should the United States or any agency thereof, in accordance with any federal statute, rule, or regulation, provide for the payment of damages to property and/or for death or injury as provided for in this section, then and in that event there shall be no liability or obligation whatsoever upon the part of the state of Washington for any such damage, death, or injury for which the United States government assumes liability.

(3) No act or omission by a covered volunteer emergency worker while engaged in a covered activity shall impose any liability for civil damages resulting from such an act or omission upon:

(a) The covered volunteer emergency worker;

(b) The supervisor or supervisors of the covered volunteer emergency worker;

(c) Any facility or their officers or employees;

(d) The employer of the covered volunteer emergency worker;

(e) The owner of the property or vehicle where the act or omission may have occurred during the covered activity;

(f) Any local organization that registered the covered volunteer emergency worker; and

(g) The state or any state or local governmental entity.

(4) The immunity in subsection (3) of this section applies only when the covered volunteer emergency worker was engaged in a covered activity:

(a) Within the scope of his or her assigned duties;

(b) Under the direction of a local emergency management organization or the department, or a local law enforcement agency for search and rescue; and

(c) The act or omission does not constitute gross negligence or willful or wanton misconduct.

(5) For purposes of this section:

(a) "Covered volunteer emergency worker" means an emergency worker as defined in RCW 38.52.010 who (i) is not receiving or expecting compensation as an emergency worker from the state or local government, or (ii) is not a state or local government employee unless on leave without pay status.

(b) "Covered activity" means:

(i) Providing assistance or transportation authorized by the department during an emergency or disaster or search and rescue as defined in RCW 38.52.010, whether such assistance or transportation is provided at the scene of the emergency or disaster or search and rescue, at an alternative care site, at a hospital, or while in route to or from such sites or between sites; or

(ii) Participating in training or exercise authorized by the department in preparation for an emergency or disaster or search and rescue.

(6) Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency worker who shall, in the course of performing his or her duties as such, practice such professional, mechanical, or other skill during an emergency described in this chapter.

(7) The provisions of this section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under this chapter, or under the workers' compensation law, or under any pension or retirement law, nor the right of any such person to receive any benefits or compensation under any act of congress.

(8) Any act or omission by a covered volunteer emergency worker while engaged in a covered activity using an off-road vehicle, nonhighway vehicle, or wheeled all-terrain vehicle does not impose any liability for civil damages resulting from such an act or omission upon the covered volunteer emergency worker or the worker's sponsoring organization.

Sec. 2. RCW 46.09.320 and 2011 c 171 s 24 are each amended to read as follows:

((~~The department shall issue a certificate of title to the owner of an off-road vehicle. The owner shall pay the fee established under RCW 46.17.100. Issuance of the certificate of title does not qualify the vehicle for registration under chapter 46.16A RCW.~~)) (1) The application for a certificate of title of an off-road vehicle must be made by the owner or owner's representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the off-road vehicle, including make, model, vehicle identification number or engine serial number if no vehicle identification number exists, type of body, and model year of the vehicle;

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

(c) Other information the department may require.

(2) The application for a certificate of title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under RCW 9A.72.085.

(3) The owner must pay the fee established under RCW 46.17.100.

(4) Issuance of the certificate of title does not qualify the off-road vehicle for registration under chapter 46.16A RCW.

Sec. 3. RCW 46.09.442 and 2013 2nd sp.s. c 23 s 4 are each amended to read as follows:

(1) Any wheeled all-terrain vehicle operated within this state must display a metal tag to be affixed to the rear of the wheeled all-terrain vehicle. The initial metal tag must be issued with an original off-road vehicle registration and upon payment of the initial vehicle license fee under RCW 46.17.350(1)(s). The metal tag must be replaced every seven years at a cost of two dollars. Revenue from replacement metal tags must be deposited into the nonhighway and off-road vehicle activities program account. The department must design the metal tag, which must:

(a) Be the same size as a motorcycle license plate;

(b) Have the words "RESTRICTED VEHICLE" listed at the top of the tag;

(c) Contain designated identification through a combination of letters and numbers;

(d) Leave space at the bottom left corner of the tag for an off-road tab issued under subsection (2) of this section; and

(e) Leave space at the bottom right corner of the tag for an on-road tab, when required, issued under subsection (3) of this section.

(2) Except as provided in subsection (6)(b) of this section, a person who operates a wheeled all-terrain vehicle must have a current and proper off-road vehicle registration, with the appropriate off-road tab, and pay the annual vehicle license fee as provided in RCW 46.17.350(1)(s), which must be deposited into the nonhighway and off-road vehicle activities program account. The off-road tab must be issued annually by the department upon payment of initial and renewal vehicle license fees under RCW 46.17.350(1)(s).

(3) Except as provided in subsection (6)(a) of this section, a person who operates a wheeled all-terrain vehicle upon a public roadway must have a current and proper on-road vehicle registration, with the appropriate on-road tab, which must be of a bright color that can be seen from a reasonable distance, and pay the annual vehicle license fee as provided in RCW 46.17.350(1)(r). The on-road tab must be issued annually by the department upon payment of initial and renewal vehicle license fees under RCW 46.17.350(1)(r).

(4) Beginning July 1, 2017, for purposes of subsection (3) of this section, a special year tab issued pursuant to chapter 46.19 RCW to a person with a disability may be displayed on a wheeled all-terrain vehicle in lieu of an on-road tab.

(5) A wheeled all-terrain vehicle may not be registered for commercial use.

(6)(a) A wheeled all-terrain vehicle registration and a metal tag are not required under this chapter for a wheeled all-terrain vehicle that meets the definition in RCW 46.09.310(19), is owned by a resident of another state, and has a vehicle registration and metal tag or license plate issued in accordance with the laws of the other state allowing for on-road travel in that state. This

exemption applies only to the extent that: (i) A similar exemption or privilege is granted under the laws of that state for wheeled all-terrain vehicles registered in Washington, and (ii) the other state has equipment requirements for on-road use that meet or exceed the requirements listed in RCW 46.09.457. The department may publish on its web site a list of states that meet the exemption requirements under this subsection.

(b) Off-road operation in Washington state of a wheeled all-terrain vehicle owned by a resident of another state and meeting the definition in RCW 46.09.310(19) is governed by RCW 46.09.420(4).

Sec. 4. RCW 46.09.457 and 2015 c 160 s 1 are each amended to read as follows:

(1) A person may operate a wheeled all-terrain vehicle upon any public roadway of this state, not including nonhighway roads and trails, subject to RCW 46.09.455 and the following equipment and declaration requirements:

(a) A person who operates a wheeled all-terrain vehicle must comply with the following equipment requirements:

(i) Headlights meeting the requirements of RCW 46.37.030 and 46.37.040 and used at all times when the vehicle is in motion upon a highway;

(ii) One tail lamp meeting the requirements of RCW 46.37.525 and used at all times when the vehicle is in motion upon a highway; however, a utility-type vehicle, as described under RCW 46.09.310, must have two tail lamps meeting the requirements of RCW 46.37.070(1) and to be used at all times when the vehicle is in motion upon a highway;

(iii) A stop lamp meeting the requirements of RCW 46.37.200;

(iv) Reflectors meeting the requirements of RCW 46.37.060;

(v) During hours of darkness, as defined in RCW 46.04.200, turn signals meeting the requirements of RCW 46.37.200. Outside of hours of darkness, the operator must comply with RCW 46.37.200 or 46.61.310;

(vi) A mirror attached to either the right or left handlebar, which must be located to give the operator a complete view of the highway for a distance of at least two hundred feet to the rear of the vehicle; however, a utility-type vehicle, as described under RCW 46.09.310(19), must have two mirrors meeting the requirements of RCW 46.37.400;

(vii) A windshield meeting the requirements of RCW 46.37.430, unless the operator wears glasses, goggles, or a face shield while operating the vehicle, of a type conforming to rules adopted by the Washington state patrol;

(viii) A horn or warning device meeting the requirements of RCW 46.37.380;

(ix) Brakes in working order;

(x) A spark arrester and muffling device meeting the requirements of RCW 46.09.470; and

(xi) For utility-type vehicles, as described under RCW 46.09.310(19), seat belts meeting the requirements of RCW 46.37.510.

(b) A person who operates a wheeled all-terrain vehicle upon a public roadway must provide a declaration that includes the following:

(i) Documentation of a safety inspection to be completed by a licensed wheeled all-terrain vehicle dealer or motor vehicle repair shop in the state of Washington that must outline the vehicle information and certify under oath that all wheeled all-terrain vehicle equipment as required under this section meets the

requirements outlined in state and federal law. A person who makes a false statement regarding the inspection of equipment required under this section is guilty of false swearing, a gross misdemeanor, under RCW 9A.72.040;

(ii) Documentation that the licensed wheeled all-terrain vehicle dealer or motor vehicle repair shop did not charge more than fifty dollars per safety inspection and that the entire safety inspection fee is paid directly and only to the licensed wheeled all-terrain vehicle dealer or motor vehicle repair shop;

(iii) A statement that the licensed wheeled all-terrain vehicle dealer or motor vehicle repair shop is entitled to the full amount charged for the safety inspection;

(iv) A vehicle identification number verification that must be completed by a licensed wheeled all-terrain vehicle dealer or motor vehicle repair shop in the state of Washington;

(v) A release, on a form to be supplied by the department, signed by the owner of the wheeled all-terrain vehicle and verified by the department, county auditor or other agent, or subagent appointed by the director that releases the state, counties, cities, and towns from any liability; and

(vi) A statement that outlines that the owner understands that the original wheeled all-terrain vehicle was not manufactured for on-road use and that it has been modified for use on public roadways.

(2) This section does not apply to emergency services vehicles, vehicles used for emergency management purposes, or vehicles used in the production of agricultural and timber products on and across lands owned, leased, or managed by the owner or operator of the wheeled all-terrain vehicle or the operator's employer.

Sec. 5. RCW 46.19.030 and 2014 c 124 s 4 are each amended to read as follows:

(1) The department shall design special license plates for persons with disabilities, parking placards, and year tabs displaying the international symbol of access.

(2) Special license plates for persons with disabilities must be displayed on the motor vehicle as standard issue license plates as described in RCW 46.16A.200.

(3) Parking placards must include both a serial number and the expiration date on the face of the placard. The expiration date and serial number must be of a sufficient size as to be easily visible from a distance of ten feet from where the placard is displayed.

(4) Parking placards must be displayed when the motor vehicle is parked by suspending it from the rearview mirror. In the absence of a rearview mirror, the parking placard must be displayed on the dashboard. The parking placard must be displayed in a manner that allows for the entire placard to be viewed through the vehicle windshield.

(5) Special year tabs for persons with disabilities must be displayed on license plates or metal tags issued pursuant to RCW 46.09.442, in a manner as defined by the department.

(6) Persons who have been issued special license plates for persons with disabilities, parking placards, or special license plates with a special year tab for persons with disabilities may park in places reserved for persons with physical disabilities.

NEW SECTION. **Sec. 6.** Sections 2 and 5 of this act take effect July 1, 2017.

Passed by the House March 8, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 85

[House Bill 2023]

CERTIFICATED SCHOOL EMPLOYEES--NOTICES OF NONRENEWAL OF CONTRACTS--DEADLINE

AN ACT Relating to changing the deadline for notices of nonrenewal of contracts for certificated school employees; amending RCW 28A.405.210, 28A.405.220, 28A.405.230, 28A.405.245, and 28A.310.250; and declaring an emergency.

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

Sec. 1. RCW 28A.405.210 and 2010 c 235 s 303 are each amended to read as follows:

No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he or she is the holder of an effective teacher's certificate or other certificate required by law or the Washington professional educator standards board for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law, limited to a term of not more than one year. Every such contract shall be made in duplicate, one copy to be retained by the school district superintendent or secretary and one copy to be delivered to the employee. No contract shall be offered by any board for the employment of any employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, or if the omnibus appropriations act has not passed the legislature by ((~~May 15th~~)) the end of the regular legislative session for that year, then notification shall be no later than June 15th, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein.

Every such employee so notified, at his or her request made in writing and filed with the president, chair or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract: PROVIDED, That any employee receiving notice of nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing, stipulate that initiation of the arrangements for a hearing officer as provided for by RCW 28A.405.310(4) shall occur within ten days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in RCW 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 or 28A.405.245 shall not be construed as a nonrenewal of contract for the purposes of this section.

Sec. 2. RCW 28A.405.220 and 2012 c 35 s 7 are each amended to read as follows:

(1) Notwithstanding the provisions of RCW 28A.405.210, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first three years of employment by such district, unless: (a) The employee has previously completed at least two years of certificated employment in another school district in the state of Washington, in which case the employee shall be subject to nonrenewal of employment contract pursuant to this section during the first year of employment with the new district; or (b) the employee has received an evaluation rating below level 2 on the four-level rating system established under RCW 28A.405.100 during the third year of employment, in which case the employee shall remain subject to the nonrenewal of the employment contract until the employee receives a level 2 rating; or (c) the school district superintendent may make a determination to remove an employee from provisional status if the employee has received one of the top two evaluation ratings during the second year of employment by the district. Employees as defined in this section shall hereinafter be referred to as "provisional employees."

(2) In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, or if the omnibus appropriations act has not passed the legislature by ((~~May 15th~~)) the end of the regular legislative session for that year, then notification shall be no later than June 15th, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the

superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

(3) Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the superintendent for the purpose of requesting the superintendent to reconsider his or her decision. Such meeting shall be held no later than ten days following the receipt of such request, and the provisional employee shall be given written notice of the date, time and place of meeting at least three days prior thereto. At such meeting the provisional employee shall be given the opportunity to refute any facts upon which the superintendent's determination was based and to make any argument in support of his or her request for reconsideration.

(4) Within ten days following the meeting with the provisional employee, the superintendent shall either reinstate the provisional employee or shall submit to the school district board of directors for consideration at its next regular meeting a written report recommending that the employment contract of the provisional employee be nonrenewed and stating the reason or reasons therefor. A copy of such report shall be delivered to the provisional employee at least three days prior to the scheduled meeting of the board of directors. In taking action upon the recommendation of the superintendent, the board of directors shall consider any written communication which the provisional employee may file with the secretary of the board at any time prior to that meeting.

(5) The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superintendent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

(6) This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.405.210 and chapter 28A.645 RCW.

Sec. 3. RCW 28A.405.230 and 2010 c 235 s 304 are each amended to read as follows:

Any certificated employee of a school district employed as an assistant superintendent, director, principal, assistant principal, coordinator, or in any other supervisory or administrative position, hereinafter in this section referred to as "administrator", shall be subject to transfer, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section, shall mean any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator.

Every superintendent determining that the best interests of the school district would be served by transferring any administrator to a subordinate certificated position shall notify that administrator in writing on or before May 15th preceding the commencement of such school term of that determination, or if the omnibus appropriations act has not passed the legislature by ((~~May 15th~~))

the end of the regular legislative session for that year, then notification shall be no later than June 15th, which notification shall state the reason or reasons for the transfer, and shall identify the subordinate certificated position to which the administrator will be transferred. Such notice shall be served upon the administrator personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

Every such administrator so notified, at his or her request made in writing and filed with the president or chair, or secretary of the board of directors of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the board of directors in an executive session thereof for the purpose of requesting the board to reconsider the decision of the superintendent. Such board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall notify the administrator in writing of the date, time and place of the meeting at least three days prior thereto. At such meeting the administrator shall be given the opportunity to refute any facts upon which the determination was based and to make any argument in support of his or her request for reconsideration. The administrator and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the administrator in writing of its final decision within ten days following its meeting with the administrator. No appeal to the courts shall lie from the final decision of the board of directors to transfer an administrator to a subordinate certificated position: PROVIDED, That in the case of principals such transfer shall be made at the expiration of the contract year and only during the first three consecutive school years of employment as a principal by a school district; except that if any such principal has been previously employed as a principal by another school district in the state of Washington for three or more consecutive school years the provisions of this section shall apply only to the first full school year of such employment.

This section applies to any person employed as an administrator by a school district on June 25, 1976, and to all persons so employed at any time thereafter, except that RCW 28A.405.245 applies to persons first employed after June 10, 2010, as a principal by a school district meeting the criteria of RCW 28A.405.245. This section provides the exclusive means for transferring an administrator subject to this section to a subordinate certificated position at the expiration of the term of his or her employment contract.

Sec. 4. RCW 28A.405.245 and 2010 c 235 s 302 are each amended to read as follows:

(1) Any certificated employee of a school district under this section who is first employed as a principal after June 10, 2010, shall be subject to transfer as provided under this section, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section means any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator. This section applies only to school districts with an annual average student enrollment of more than thirty-five thousand full-time equivalent students.

(2) During the first three consecutive school years of employment as a principal by the school district, or during the first full school year of such employment in the case of a principal who has been previously employed as a principal by another school district in the state for three or more consecutive school years, the transfer of the principal to a subordinate certificated position may be made by a determination of the superintendent that the best interests of the school district would be served by the transfer.

(3) Commencing with the fourth consecutive school year of employment as a principal, or the second consecutive school year of such employment in the case of a principal who has been previously employed as a principal by another school district in the state for three or more consecutive school years, the transfer of the principal to a subordinate certificated position shall be based on the superintendent's determination that the results of the evaluation of the principal's performance using the evaluative criteria and rating system established under RCW 28A.405.100 provide a valid reason for the transfer without regard to whether there is probable cause for the transfer. If a valid reason is shown, it shall be deemed that the transfer is reasonably related to the principal's performance. No probationary period is required. However, provision of support and an attempt at remediation of the performance of the principal, as defined by the superintendent, are required for a determination by the superintendent under this subsection that the principal should be transferred to a subordinate certificated position.

(4) Any superintendent transferring a principal under this section to a subordinate certificated position shall notify that principal in writing on or before May 15th before the beginning of the school year of that determination, or if the omnibus appropriations act has not passed the legislature by ((~~May 15th~~)) the end of the regular legislative session for that year, then notification shall be no later than June 15th. The notification shall state the reason or reasons for the transfer and shall identify the subordinate certificated position to which the principal will be transferred. The notification shall be served upon the principal personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

(5) Any principal so notified may request to the president or chair of the board of directors of the district, in writing and within ten days after receiving notice, an opportunity to meet informally with the board of directors in an executive session for the purpose of requesting the board to reconsider the decision of the superintendent, and shall be given such opportunity. The board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall give the principal written notice at least three days before the meeting of the date, time, and place of the meeting. At the meeting the principal shall be given the opportunity to refute any evidence upon which the determination was based and to make any argument in support of his or her request for reconsideration. The principal and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the principal in writing of its final decision within ten days following its meeting with the principal. No appeal to the courts shall lie from the final decision of the board of directors to transfer a principal to a subordinate certificated position.

(6) This section provides the exclusive means for transferring a certificated employee first employed by a school district under this section as a principal after June 10, 2010, to a subordinate certificated position at the expiration of the term of his or her employment contract.

Sec. 5. RCW 28A.310.250 and 2009 c 57 s 4 are each amended to read as follows:

No certificated employee of an educational service district shall be employed as such except by written contract, which shall be in conformity with the laws of this state. Every such contract shall be made in duplicate, one copy of which shall be retained by the educational service district superintendent and the other shall be delivered to the employee.

Every educational service district superintendent or board determining that there is probable cause or causes that the employment contract of a certificated employee thereof is not to be renewed for the next ensuing term shall be notified in writing on or before May 15th preceding the commencement of such term of that determination or if the omnibus appropriations act has not passed the legislature by ((~~May 15th~~)) the end of the regular legislative session for that year, then notification shall be no later than June 15th, which notification shall specify the cause or causes for nonrenewal of contract. Such notice shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. The procedure and standards for the review of the decision of the hearing officer, superintendent or board and appeal therefrom shall be as prescribed for nonrenewal cases of teachers in RCW 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. Appeals may be filed in the superior court of any county in the educational service district.

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 House February 17, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 86

[Engrossed Substitute House Bill 2274]

VEHICLE REPORTS OF SALE--INCORRECTLY NAMED BUYERS

AN ACT Relating to protecting individuals from reports of sale filed with an incorrect buyer of a subsequently abandoned vehicle; amending RCW 46.12.650, 46.55.105, 19.16.250, and 9.94A.753; and adding a new section to chapter 46.64 RCW.

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

Sec. 1. RCW 46.12.650 and 2015 3rd sp.s. c 44 s 214 are each amended to read as follows:

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

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

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

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

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

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

(a) Sold;

(b) Given as a gift to another person;

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

(d) Donated to charity;

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

(f) Disposed of.

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

(a) The date of sale or transfer;

(b) The owner's full name and complete, current address;

(c) The full name and complete, current address of the person acquiring the vehicle, including street name and number, and apartment number if applicable, or post office box number, city or town, and postal code;

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

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

(f) Payment of the fees required under RCW 46.17.050.

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

(i) Provide or approve reports of sale forms;

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

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

(iv) Provide instructions on release of interest forms that allow the seller of a vehicle to release their interest in a vehicle at the same time a financial institution, as defined in RCW 30A.22.040, releases its lien on the vehicle; and

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

(b) ((~~A report of sale that is received by the department, county auditor or other agent, or subagent appointed by the director after the twenty-first day becomes effective on the day it is received by the department, county auditor or other agent, or subagent appointed by the director.~~)) A report of sale is not proof of a completed vehicle transfer for purposes of the collection of expenses related to towing, storage, and auction of an abandoned vehicle in situations where there is no evidence indicating the buyer knew of or was a party to acceptance of the vehicle transfer. A contract signed by the prior owner and the new owner, a certificate of title, a receipt, a purchase order or wholesale order, or other legal

proof or record of acceptance of the vehicle by the new owner may be provided to establish legal responsibility for the abandoned vehicle.

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

(i) Apply for a new certificate of title on behalf of the owner and pay the fee required under RCW 46.17.100; or

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

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

(6) **Certificate of title delivered to secured party.** The certificate of title must be kept by or delivered to the person who becomes the secured party when a security interest is reserved or created at the time of the transfer of ownership. The parties must comply with RCW 46.12.675.

(7) **Penalty for late transfer.** A person who has recently acquired a motor vehicle by purchase, exchange, gift, lease, inheritance, or legal action who does not apply for a new certificate of title within fifteen calendar days of delivery of the vehicle is charged a penalty, as described in RCW 46.17.140, when applying for a new certificate of title. It is a misdemeanor to fail or neglect to apply for a transfer of ownership within forty-five days after delivery of the vehicle. The misdemeanor is a single continuing offense for each day that passes regardless of the number of days that have elapsed following the forty-five day time period.

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

(a) The department requests additional supporting documents;

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

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

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

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

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

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

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

Sec. 2. RCW 46.55.105 and 2010 c 161 s 1119 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, the abandonment of any vehicle creates a prima facie presumption that the last registered owner of record is responsible for the abandonment and is liable for costs incurred in

removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(2) If an unauthorized vehicle is found abandoned under subsection (1) of this section and removed at the direction of law enforcement, the last registered owner of record is guilty of the traffic infraction of "littering—abandoned vehicle," unless the vehicle is redeemed as provided in RCW 46.55.120. In addition to any other monetary penalty payable under chapter 46.63 RCW, the court shall not consider all monetary penalties as having been paid until the court is satisfied that the person found to have committed the infraction has made restitution in the amount of the deficiency remaining after disposal of the vehicle under RCW 46.55.140.

(3) A vehicle theft report filed with a law enforcement agency relieves the last registered owner of liability under subsection (2) of this section for failure to redeem the vehicle. However, the last registered owner remains liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle under subsection (1) of this section. Nothing in this section limits in any way the registered owner's rights in a civil action or as restitution in a criminal action against a person responsible for the theft of the vehicle.

(4) Properly filing a report of sale or transfer regarding the vehicle involved in accordance with RCW 46.12.650 (1) through (3) relieves the last registered owner of liability under subsections (1) and (2) of this section. However, if there is a reason to believe that a report of sale has been filed in which the reported buyer did not know of the alleged transfer or did not accept the vehicle transfer, the liability remains with the last registered owner to prove the vehicle transfer was made pursuant to a legal transfer or accepted by the person reported as the new owner on the report of sale. If the date of sale as indicated on the report of sale is ((~~on or~~)) before the date of impoundment, the buyer identified on the latest properly filed report of sale with the department is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction. If the date of sale is after the date of impoundment, the previous registered owner is assumed to be liable for such costs. A licensed vehicle dealer is not liable under subsections (1) and (2) of this section if the dealer, as transferee or assignee of the last registered owner of the vehicle involved, has complied with the requirements of RCW 46.70.122 upon selling or otherwise disposing of the vehicle, or if the dealer has timely filed a transitional ownership record or report of sale under RCW 46.12.660. In that case the person to whom the licensed vehicle dealer has sold or transferred the vehicle is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(5) For the purposes of reporting notices of traffic infraction to the department under RCW 46.20.270 and 46.52.101, and for purposes of reporting notices of failure to appear, respond, or comply regarding a notice of traffic infraction to the department under RCW 46.63.070(6), a traffic infraction under subsection (2) of this section is not considered to be a standing, stopping, or parking violation.

(6) A notice of infraction for a violation of this section may be filed with a court of limited jurisdiction organized under Title 3, 35, or 35A RCW, or with a violations bureau subject to the court's jurisdiction.

(7)(a) A person named as a buyer in a report of sale filed under RCW 46.12.650(3) in which there was no acceptance of the transfer has a cause of action against the person who filed the report to recover costs associated with towing, storage, auction, or any other damages incurred as a result of being named as the buyer in the report of sale, including reasonable attorneys' fees and litigation costs. The cause of action provided in this subsection (7)(a) is in addition to any other remedy available to the person at law or in equity.

(b) A person named as a seller in a report of sale filed under RCW 46.12.650(3) in which the named buyer falsely alleges that there was no acceptance of the transfer has a cause of action against the named buyer to recover damages incurred as a result of the allegation, including reasonable attorneys' fees and litigation costs. The cause of action in this subsection (7)(b) is in addition to any other remedy available to the person at law or in equity.

NEW SECTION. **Sec. 3.** A new section is added to chapter 46.64 RCW to read as follows:

If a court has declared that a fraudulent report of sale has been filed with the department, county auditor or other agent, or subagent appointed by the director, the court must notify the department in writing with a copy of the court order. Once notified, the department may remove the fraudulent report of sale from the vehicle record.

Sec. 4. RCW 19.16.250 and 2013 c 148 s 2 are each amended to read as follows:

No licensee or employee of a licensee shall:

(1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive compensation from such unlicensed person: PROVIDED, That nothing in this chapter shall prevent a licensee from accepting, as forwardee, claims for collection from a collection agency or attorney whose place of business is outside the state.

(2) Collect or attempt to collect a claim by the use of any means contrary to the postal laws and regulations of the United States postal department.

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as "bad debt lists" or threaten to do so. For purposes of this chapter, a "bad debt list" means any list of natural persons alleged to fail to honor their lawful debts. However, nothing herein shall be construed to prohibit a licensee from communicating to its customers or clients by means of a coded list, the existence of a check dishonored because of insufficient funds, not sufficient funds or closed account by the financial institution servicing the debtor's checking account: PROVIDED, That the debtor's identity is not readily apparent: PROVIDED FURTHER, That the licensee complies with the requirements of subsection (10)(e) of this section.

(4) Have in his or her possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business.

(5) Perform any act or acts, either directly or indirectly, constituting the unauthorized practice of law.

(6) Advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereof or agreeing to do so for the purpose of soliciting claims, except where the licensee has acquired claims as an assignee for the benefit of creditors or where the licensee is acting under court order.

(7) Use any name while engaged in the making of a demand for any claim other than the name set forth on his or her or its current license issued hereunder.

(8) Give or send to any debtor or cause to be given or sent to any debtor, any notice, letter, message, or form, other than through proper legal action, process, or proceedings, which represents or implies that a claim exists unless it shall indicate in clear and legible type:

(a) The name of the licensee and the city, street, and number at which he or she is licensed to do business;

(b) The name of the original creditor to whom the debtor owed the claim if such name is known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall provide this name to the debtor or cease efforts to collect on the debt until this information is provided;

(c) If the notice, letter, message, or form is the first notice to the debtor or if the licensee is attempting to collect a different amount than indicated in his or her or its first notice to the debtor, an itemization of the claim asserted must be made including:

(i) Amount owing on the original obligation at the time it was received by the licensee for collection or by assignment;

(ii) Interest or service charge, collection costs, or late payment charges, if any, added to the original obligation by the original creditor, customer or assignor before it was received by the licensee for collection, if such information is known by the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain information on such items and provide this information to the debtor;

(iii) Interest or service charge, if any, added by the licensee or customer or assignor after the obligation was received by the licensee for collection;

(iv) Collection costs, if any, that the licensee is attempting to collect;

(v) Attorneys' fees, if any, that the licensee is attempting to collect on his or her or its behalf or on the behalf of a customer or assignor; and

(vi) Any other charge or fee that the licensee is attempting to collect on his or her or its own behalf or on the behalf of a customer or assignor;

(d) If the notice, letter, message, or form concerns a judgment obtained against the debtor, no itemization of the amounts contained in the judgment is required, except postjudgment interest, if claimed, and the current account balance;

(e) If the notice, letter, message, or form is the first notice to the debtor, an itemization of the claim asserted must be made including the following information:

(i) The original account number or redacted original account number assigned to the debt, if known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided; and

(ii) The date of the last payment to the creditor on the subject debt by the debtor, if known to the licensee or employee: PROVIDED, That upon written

request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided.

(9) Communicate in writing with a debtor concerning a claim through a proper legal action, process, or proceeding, where such communication is the first written communication with the debtor, without providing the information set forth in subsection (8)(c) of this section in the written communication.

(10) Communicate or threaten to communicate, the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action, process, or proceedings except under the following conditions:

(a) A licensee or employee of a licensee may inform a credit reporting bureau of the existence of a claim. If the licensee or employee of a licensee reports a claim to a credit reporting bureau, the licensee shall, upon receipt of written notice from the debtor that any part of the claim is disputed, notify the credit reporting bureau of the dispute by written or electronic means and create a record of the fact of the notification and when the notification was provided;

(b) A licensee or employee in collecting or attempting to collect a claim may communicate the existence of a claim to a debtor's employer if the claim has been reduced to a judgment;

(c) A licensee or employee in collecting or attempting to collect a claim that has not been reduced to judgment, may communicate the existence of a claim to a debtor's employer if:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his or her last known address or place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing to the licensee disputed any part of the claim: PROVIDED, That the licensee or employee may only communicate the existence of a claim which has not been reduced to judgment to the debtor's employer once unless the debtor's employer has agreed to additional communications.

(d) A licensee may for the purpose of locating the debtor or locating assets of the debtor communicate the existence of a claim to any person who might reasonably be expected to have knowledge of the whereabouts of a debtor or the location of assets of the debtor if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his or her last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(e) A licensee may communicate the existence of a claim to its customers or clients if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee has notified or attempted to notify the debtor in writing at his or her last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has

failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(11) Threaten the debtor with impairment of his or her credit rating if a claim is not paid: PROVIDED, That advising a debtor that the licensee has reported or intends to report a claim to a credit reporting agency is not considered a threat if the licensee actually has reported or intends to report the claim to a credit reporting agency.

(12) Communicate with the debtor after notification in writing from an attorney representing such debtor that all further communications relative to a claim should be addressed to the attorney: PROVIDED, That if a licensee requests in writing information from an attorney regarding such claim and the attorney does not respond within a reasonable time, the licensee may communicate directly with the debtor until he or she or it again receives notification in writing that an attorney is representing the debtor.

(13) Communicate with a debtor or anyone else in such a manner as to harass, intimidate, threaten, or embarrass a debtor, including but not limited to communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, by threats of criminal prosecution, and by use of offensive language. A communication shall be presumed to have been made for the purposes of harassment if:

(a) It is made with a debtor or spouse in any form, manner, or place, more than three times in a single week, unless the licensee is responding to a communication from the debtor or spouse;

(b) It is made with a debtor at his or her place of employment more than one time in a single week, unless the licensee is responding to a communication from the debtor;

(c) It is made with the debtor or spouse at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m. A call to a telephone is presumed to be received in the local time zone to which the area code of the number called is assigned for landline numbers, unless the licensee reasonably believes the telephone is located in a different time zone. If the area code is not assigned to landlines in any specific geographic area, such as with toll-free telephone numbers, a call to a telephone is presumed to be received in the local time zone of the debtor's last known place of residence, unless the licensee reasonably believes the telephone is located in a different time zone.

(14) Communicate with the debtor through use of forms or instruments that simulate the form or appearance of judicial process, the form or appearance of government documents, or the simulation of a form or appearance of a telegraphic or emergency message.

(15) Communicate with the debtor and represent or imply that the existing obligation of the debtor may be or has been increased by the addition of attorney fees, investigation fees, service fees, or any other fees or charges when in fact such fees or charges may not legally be added to the existing obligation of such debtor.

(16) Threaten to take any action against the debtor which the licensee cannot legally take at the time the threat is made.

(17) Send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or

seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made: PROVIDED, That:

(a) This subsection does not prohibit a licensee from attempting to communicate by way of a cellular telephone or other wireless device: PROVIDED, That a licensee cannot cause charges to be incurred to the recipient of the attempted communication more than three times in any calendar week when the licensee knows or reasonably should know that the number belongs to a cellular telephone or other wireless device, unless the licensee is responding to a communication from the debtor or the person to whom the call is made.

(b) The licensee is not in violation of (a) of this subsection if the licensee at least monthly updates its records with information provided by a commercial provider of cellular telephone lists that the licensee in good faith believes provides reasonably current and comprehensive data identifying cellular telephone numbers, calls a number not appearing in the most recent list provided by the commercial provider, and does not otherwise know or reasonably should know that the number belongs to a cellular telephone.

(c) This subsection may not be construed to increase the number of communications permitted pursuant to subsection (13)(a) of this section.

(18) Call, or send a text message or other electronic communication to, a cellular telephone or other wireless device more than twice in any day when the licensee knows or reasonably should know that the number belongs to a cellular telephone or other wireless device, unless the licensee is responding to a communication from the debtor or the person to whom the call, text message, or other electronic communication is made. The licensee is not in violation of this subsection if the licensee at least monthly updates its records with information provided by a commercial provider of cellular telephone lists that the licensee in good faith believes provides reasonably current and comprehensive data identifying cellular telephone numbers, calls a number not appearing in the most recent list provided by the commercial provider, and does not otherwise know or reasonably should know that the number belongs to a cellular telephone. Nothing in this subsection may be construed to increase the number of communications permitted pursuant to subsection (13)(a) of this section.

(19) Intentionally block its telephone number from displaying on a debtor's telephone.

(20) In any manner convey the impression that the licensee is vouched for, bonded to or by, or is an instrumentality of the state of Washington or any agency or department thereof.

(21) Collect or attempt to collect in addition to the principal amount of a claim any sum other than allowable interest, collection costs or handling fees expressly authorized by statute, and, in the case of suit, attorney's fees and taxable court costs. A licensee may collect or attempt to collect collection costs and fees, including contingent collection fees, as authorized by a written agreement or contract, between the licensee's client and the debtor, in the collection of a commercial claim. The amount charged to the debtor for collection services shall not exceed thirty-five percent of the commercial claim.

(22) Procure from a debtor or collect or attempt to collect on any written note, contract, stipulation, promise or acknowledgment under which a debtor may be required to pay any sum other than principal, allowable interest, except

as noted in subsection (21) of this section, and, in the case of suit, attorney's fees and taxable court costs.

(23) Bring an action or initiate an arbitration proceeding on a claim when the licensee knows, or reasonably should know, that such suit or arbitration is barred by the applicable statute of limitations.

(24) Upon notification by a debtor that the debtor disputes all debts arising from a series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, initiate oral contact with a debtor more than one time in an attempt to collect from the debtor debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (a) Within the previous one hundred eighty days, in response to the licensee's attempt to collect the initial debt assigned to the licensee and arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, the debtor in writing notified the licensee that the debtor's checkbook or other series of preprinted written instruments was stolen or fraudulently created; (b) the licensee has received from the debtor a certified copy of a police report referencing the theft or fraudulent creation of the checkbook, automated clearinghouse transactions on a demand deposit account, or series of preprinted written instruments; (c) in the written notification to the licensee or in the police report, the debtor identified the financial institution where the account was maintained, the account number, the magnetic ink character recognition number, the full bank routing and transit number, and the check numbers of the stolen checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, which check numbers included the number of the check that is the subject of the licensee's collection efforts; (d) the debtor provides, or within the previous one hundred eighty days provided, to the licensee a legible copy of a government-issued photo identification, which contains the debtor's signature and which was issued prior to the date of the theft or fraud identified in the police report; and (e) the debtor advised the licensee that the subject debt is disputed because the identified check, automated clearinghouse transaction on a demand deposit account, or other preprinted written instrument underlying the debt is a stolen or fraudulently created check or instrument.

The licensee is not in violation of this subsection if the licensee initiates oral contact with the debtor more than one time in an attempt to collect debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (i) The licensee acted in good faith and relied on their established practices and procedures for batching, recording, or packeting debtor accounts, and the licensee inadvertently initiates oral contact with the debtor in an attempt to collect debts in the identified series subsequent to the initial debt assigned to the licensee; (ii) the licensee is following up on collection of a debt assigned to the licensee, and the debtor has previously requested more information from the licensee regarding the subject debt; (iii) the debtor has notified the licensee that the debtor disputes only some, but not all the debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written

instruments, in which case the licensee shall be allowed to initiate oral contact with the debtor one time for each debt arising from the series of identified checks, automated clearinghouse transactions on a demand deposit account, or written instruments and initiate additional oral contact for those debts that the debtor acknowledges do not arise from stolen or fraudulently created checks or written instruments; (iv) the oral contact is in the context of a judicial, administrative, arbitration, mediation, or similar proceeding; or (v) the oral contact is made for the purpose of investigating, confirming, or authenticating the information received from the debtor, to provide additional information to the debtor, or to request additional information from the debtor needed by the licensee to accurately record the debtor's information in the licensee's records.

(25) Bring an action or initiate an arbitration proceeding on a claim for any amounts related to a transfer of sale of a vehicle when:

(a) The licensee has been informed or reasonably should know that the department of licensing transfer of sale form was filed in accordance with RCW 46.12.650 (1) through (3);

(b) The licensee has been informed or reasonably should know that the transfer of the vehicle either (i) was not made pursuant to a legal transfer or (ii) was not voluntarily accepted by the person designated as the purchaser/transferee; and

(c) Prior to the commencement of the action or arbitration, the licensee has received from the putative transferee a copy of a police report referencing that the transfer of sale of the vehicle either (i) was not made pursuant to a legal transfer or (ii) was not voluntarily accepted by the person designated as the purchaser/transferee.

(26) Submit an affidavit or other request pursuant to chapter 6.32 RCW asking a superior or district court to transfer a bond posted by a debtor subject to a money judgment to the licensee, when the debtor has appeared as required.

Sec. 5. RCW 9.94A.753 and 2003 c 379 s 16 are each amended to read as follows:

This section applies to offenses committed after July 1, 1985.

(1) When restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within one hundred eighty days except as provided in subsection (7) of this section. The court may continue the hearing beyond the one hundred eighty days for good cause. The court shall then set a minimum monthly payment that the offender is required to make towards the restitution that is ordered. The court should take into consideration the total amount of the restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have.

(2) During the period of supervision, the community corrections officer may examine the offender to determine if there has been a change in circumstances that warrants an amendment of the monthly payment schedule. The community corrections officer may recommend a change to the schedule of payment and shall inform the court of the recommended change and the reasons for the change. The sentencing court may then reset the monthly minimum payments based on the report from the community corrections officer of the change in circumstances.

(3) Except as provided in subsection (6) of this section, restitution ordered by a court pursuant to a criminal conviction shall be based on easily

ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime.

(4) For the purposes of this section, for an offense committed prior to July 1, 2000, the offender shall remain under the court's jurisdiction for a term of ten years following the offender's release from total confinement or ten years subsequent to the entry of the judgment and sentence, whichever period ends later. Prior to the expiration of the initial ten-year period, the superior court may extend jurisdiction under the criminal judgment an additional ten years for payment of restitution. For an offense committed on or after July 1, 2000, the offender shall remain under the court's jurisdiction until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The portion of the sentence concerning restitution may be modified as to amount, terms, and conditions during any period of time the offender remains under the court's jurisdiction, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum sentence for the crime. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The offender's compliance with the restitution shall be supervised by the department only during any period which the department is authorized to supervise the offender in the community under RCW 9.94A.728, 9.94A.501, or in which the offender is in confinement in a state correctional institution or a correctional facility pursuant to a transfer agreement with the department, and the department shall supervise the offender's compliance during any such period. The department is responsible for supervision of the offender only during confinement and authorized supervision and not during any subsequent period in which the offender remains under the court's jurisdiction. The county clerk is authorized to collect unpaid restitution at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations.

(5) Restitution shall be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property or as provided in subsection (6) of this section unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment and the court sets forth such circumstances in the record. In addition, restitution shall be ordered to pay for an injury, 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 are not prosecuted pursuant to a plea agreement.

(6) Restitution for the crime of rape of a child in the first, second, or third degree, in which the victim becomes pregnant, shall include: (a) All of the victim's medical expenses that are associated with the rape and resulting pregnancy; and (b) child support for any child born as a result of the rape if child support is ordered pursuant to a civil superior court or administrative order for support for that child. The clerk must forward any restitution payments made on behalf of the victim's child to the Washington state child support registry under

chapter 26.23 RCW. Identifying information about the victim and child shall not be included in the order. The offender shall receive a credit against any obligation owing under the administrative or superior court order for support of the victim's child. For the purposes of this subsection, the offender shall remain under the court's jurisdiction until the offender has satisfied support obligations under the superior court or administrative order for the period provided in RCW 4.16.020 or a maximum term of twenty-five years following the offender's release from total confinement or twenty-five years subsequent to the entry of the judgment and sentence, whichever period is longer. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The department shall supervise the offender's compliance with the restitution ordered under this subsection.

(7) Regardless of the provisions of subsections (1) through (6) 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 judgment and sentence 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.

(8) In addition to any sentence that may be imposed, an offender who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(9) This section does not limit civil remedies or defenses available to the victim, survivors of the victim, or offender including support enforcement remedies for support ordered under subsection (6) of this section for a child born as a result of a rape of a child victim. The court shall identify in the judgment and sentence the victim or victims entitled to restitution and what amount is due each victim. The state or victim may enforce the court-ordered restitution in the same manner as a judgment in a civil action. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim.

(10) If a person has caused a victim to lose money or property through the filing of a vehicle report of sale in which the designated buyer had no knowledge of the vehicle transfer or the fraudulent filing of the report of sale, upon conviction or when the offender pleads guilty and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim, the court may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of the defendant's gain or victim's loss from the filing of the vehicle report of sale in which the designated buyer had no knowledge of the vehicle transfer or the fraudulent filing of the report of sale. Such an amount may be used to provide restitution to the victim at the order of the court. It is the

duty of the prosecuting attorney to investigate the alternative of restitution, and to recommend it to the court, when the prosecuting attorney believes that restitution is appropriate and feasible. If the court orders restitution, the court must make a finding as to the amount of the victim's loss due to the filing of the report of sale in which the designated buyer had no knowledge of the vehicle transfer or the fraudulent filing of the report of sale, and if the record does not contain sufficient evidence to support such finding, the court may conduct a hearing upon the issue. For purposes of this section, "loss" refers to the amount of money or the value of property or services lost.

Passed by the House March 7, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 87

[House Bill 2280]

DRIVING UNDER THE INFLUENCE--CLASS B FELONY

AN ACT Relating to making felony driving under the influence of intoxicating liquor, marijuana, or any drug a class B felony; amending RCW 46.61.502; and prescribing penalties.

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

Sec. 1. RCW 46.61.502 and 2013 c 3 s 33 (Initiative Measure No. 502) are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating liquor, marijuana, or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, 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 driving, 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, marijuana, or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor, marijuana, 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 shall not constitute a defense against a charge of violating this section.

(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 driving 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 driving. 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 driving 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 driving. 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 driving may be used as evidence that within two hours of the alleged driving, 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 driving may be used as evidence that within two hours of the alleged driving, 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~~)) B 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 46.61.504(6).

Passed by the House February 15, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 88

[House Bill 2309]

WATER POLLUTION CONTROL REVOLVING FUND--LOAN TERMS

AN ACT Relating to increasing the available term of water pollution control revolving fund program loans to reflect the 2014 amendments to the federal clean water act allowing such an increase; and amending RCW 90.50A.010, 90.50A.020, 90.50A.030, 90.50A.040, and 90.50A.050.

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

Sec. 1. RCW 90.50A.010 and 2013 c 96 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) "Debt service" means the total of all principal, interest, and administration charges associated with a water pollution control revolving fund loan that must be repaid to the department by the public body.

(2) "Department" means the department of ecology.

(3) "Eligible cost" means the cost of that portion of a water pollution control facility or activity that can be financed under this chapter.

(4) "Federal capitalization grants" means grants from the federal government provided by the clean water ((~~quality~~)) act ((~~of 1987 (P.L. 100-4)~~)).

(5) "Fund" means the water pollution control revolving fund in the custody of the state treasurer.

(6) "Nonpoint source water pollution" means pollution that enters any waters of the state from any dispersed water-based or land-use activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, and forest lands, subsurface or underground sources, and discharges from boats or other marine vessels.

(7) "Public body" means the state of Washington or any agency, county, city or town, other political subdivision, municipal corporation or quasi-municipal corporation, and those Indian tribes now or hereafter recognized as such by the federal government.

(8) "Water pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

(9) "Water pollution control activities" means actions taken by a public body for the following purposes: (a) To control nonpoint sources of water pollution; (b) to develop and implement a comprehensive management plan for estuaries; and (c) to maintain or improve water quality through the use of water pollution control facilities or other means.

(10) "Water pollution control facility" or "water pollution control facilities" means any facilities or systems owned or operated by a public body for the control, collection, storage, treatment, disposal, or recycling of wastewater, including but not limited to sanitary sewage, storm water, combined sewer overflows, residential, commercial, industrial, and agricultural wastes, which are causing water quality degradation due to concentrations of conventional, nonconventional, or toxic pollutants. Water pollution control facilities include all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to such purpose. Water pollution control facilities also include such facilities, equipment, and collection systems as are necessary to protect federally designated sole source aquifers.

(11) "Clean water act" means 33 U.S.C. Sec. 1251 through 1388, as it existed on the effective date of this section.

Sec. 2. RCW 90.50A.020 and 1993 c 329 s 1 are each amended to read as follows:

(1) The water pollution control revolving fund is hereby established in the state treasury. Moneys in this fund may be spent only after legislative appropriation. Moneys in the fund may be spent only in a manner consistent with this chapter.

(2) The water pollution control revolving fund shall consist of:

(a) All capitalization grants provided by the federal government under the ((~~federal~~)) clean water ((~~quality~~)) act ((~~of 1987~~));

(b) All state matching funds appropriated or authorized by the legislature;

(c) Any other revenues derived from gifts or bequests pledged to the state for the purpose of providing financial assistance for water pollution control projects;

(d) All repayments of moneys borrowed from the fund;

(e) All interest payments made by borrowers from the fund;

(f) Any other fee or charge levied in conjunction with administration of the fund; and

(g) Any new funds as a result of leveraging.

(3) The state treasurer may invest and reinvest moneys in the water pollution control revolving fund in the manner provided by law. All earnings from such investment and reinvestment shall be credited to the water pollution control revolving fund.

Sec. 3. RCW 90.50A.030 and 2007 c 341 s 38 are each amended to read as follows:

The department shall use the moneys in the water pollution control revolving fund to provide financial assistance as provided in the clean water ((~~quality~~)) act ((~~of 1987~~)) and as provided in RCW 90.50A.040:

(1) To make loans, on the condition that:

(a) Such loans are made at or below market interest rates, including interest free loans, at terms not to exceed ((~~twenty years~~)) the lesser of thirty years or the projected useful life, as determined by the state, of the project to be financed with the proceeds of the loan;

(b) Annual principal and interest payments will commence not later than one year after completion of any project and all loans will be fully amortized ((~~not later then twenty years after project completion~~)) upon the expiration of the term of the loan;

(c) The recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(d) The fund will be credited with all payments of principal and interest on all loans.

(2) Loans may be made for the following purposes:

(a) To public bodies for the construction or replacement of water pollution control facilities as defined in ((~~section 212 of~~)) the ((~~federal~~)) clean water ((~~quality~~)) act ((~~of 1987~~));

(b) For the implementation of a management program established under ((~~section 319 of~~)) the ((~~federal~~)) clean water ((~~quality~~)) act ((~~of 1987~~)) relating to the management of nonpoint sources of pollution, subject to the requirements of that act; and

(c) For development and implementation of a conservation and management plan under ((~~section 320 of~~)) the ((~~federal~~)) clean water ((~~quality~~)) act ((~~of 1987~~)) relating to the national estuary program, subject to the requirements of that act.

(3) The department may also use the moneys in the fund for the following purposes:

(a) To buy or refinance the water pollution control facilities' debt obligations of public bodies at or below market rates, if such debt was incurred after March 7, 1985;

(b) To guarantee, or purchase insurance for, public body obligations for water pollution control facility construction or replacement or activities if the guarantee or insurance would improve credit market access or reduce interest rates, or to provide loans to a public body for this purpose;

(c) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state if the proceeds of the sale of such bonds will be deposited in the fund;

(d) To earn interest on fund accounts; and

(e) To pay the expenses of the department in administering the water pollution control revolving fund according to administrative reserves authorized by federal and state law.

(4) The department shall present a biennial progress report on the use of moneys from the account to the appropriate committees of the legislature. The report shall consist of a list of each recipient, project description, and amount of the grant, loan, or both.

(5) The department may not use the moneys in the water pollution control revolving fund for grants.

Sec. 4. RCW 90.50A.040 and 2007 c 341 s 39 are each amended to read as follows:

Moneys deposited in the water pollution control revolving fund shall be administered by the department. In administering the fund, the department shall:

(1) Consistent with RCW 90.50A.030 and 90.50A.080, allocate funds for loans in accordance with the annual project priority list in accordance with ((~~section 212 of~~)) the ((~~federal~~)) clean water ((~~pollution control~~)) act ((~~as amended in 1987, and allocate funds under sections 319 and 320 according to the provisions of that act~~));

(2) Use accounting, audit, and fiscal procedures that conform to generally accepted government accounting standards;

(3) Prepare any reports required by the federal government as a condition to awarding federal capitalization grants;

(4) Adopt by rule any procedures or standards necessary to carry out the provisions of this chapter;

(5) Enter into agreements with the federal environmental protection agency;

(6) Cooperate with local, substate regional, and interstate entities regarding state assessment reports and state management programs related to the nonpoint source management programs as noted in ((~~section 319(c) of~~)) the ((~~federal~~)) clean water ((~~pollution control~~)) act ((~~amendments of 1987 and estuary programs developed under section 320 of that act~~));

(7) Comply with provisions of the clean water ((~~quality~~)) act ((~~of 1987~~)); and

(8) After January 1, 2010, not provide funding for projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

Sec. 5. RCW 90.50A.050 and 1988 c 284 s 6 are each amended to read as follows:

Any public body receiving a loan from the fund shall:

(1) Appear on the annual project priority list to be identified for funding under ((~~section 212 of~~)) the ((~~federal~~)) clean water ((~~pollution control~~)) act ((~~amendments of 1987 or be eligible under sections 319 and 320 of that act~~));

(2) Submit an application to the department;

(3) Establish and maintain a dedicated source of revenue or other acceptable source of revenue for the repayment of the loan; and

(4) Demonstrate to the satisfaction of the department that it has sufficient legal authority to incur the debt for which it is applying.

Passed by the House February 12, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 89

[House Bill 2371]

JUDICIAL INFORMATION SYSTEM--COURT CONSULTATION--FILING OF DOCUMENT USED

AN ACT Relating to the court's consultation of the judicial information system before granting orders; and amending RCW 2.28.210.

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

Sec. 1. RCW 2.28.210 and 2015 c 140 s 1 are each amended to read as follows:

(1) Before granting an order under any of the following titles of the laws of the state of Washington, the court may consult the judicial information system or any related databases, if available, to determine criminal history or the pendency of other proceedings involving the parties:

(a) Granting any temporary or final order establishing a parenting plan or residential schedule or directing residential placement of a child or restraining or limiting a party's contact with a child under Title 26 RCW;

(b) Granting any order regarding a vulnerable child or adult or alleged incapacitated person irrespective of the title or where contained in the laws of the state of Washington;

(c) Granting letters of guardianship or administration or letters testamentary under Title 11 RCW;

(d) Granting any relief under Title 71 RCW;

(e) Granting any relief in a juvenile proceeding under Title 13 RCW; or

(f) Granting any order of protection, temporary order of protection, or criminal no-contact order under chapter 7.90, 7.92, 9A.46, 10.14, 10.99, 26.50, or 26.52 RCW.

(2) In the event that the court consults such a database, the court shall disclose that fact to the parties and shall disclose any particular matters relied

upon by the court in rendering the decision. Upon request of a party, a copy of the document relied upon must be filed, as a confidential document, within the court file, with any confidential contact information such as addresses, phone numbers, or other information that might disclose the location or whereabouts of any person redacted from the document or documents.

Passed by the House February 17, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 90

[Engrossed Second Substitute House Bill 2793]
SUICIDE--AWARENESS AND PREVENTION EDUCATION

AN ACT Relating to providing for suicide awareness and prevention education for safer homes; amending RCW 9.41.310 and 43.70.442; adding a new section to chapter 43.70 RCW; creating new sections; providing an effective date; and providing expiration dates.

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

NEW SECTION. **Sec. 1.** The legislature finds that: Washington's suicide rate is fourteen percent higher than the national average; on average, two young people between the ages of ten and twenty-four die by suicide each week; almost a quarter of those who die by suicide are veterans; and many of the state's rural and tribal communities have the highest suicide rates. The legislature further finds that when suicide occurs, it has devastating consequences for communities and schools, yet, according to the United States surgeon general, suicide is the nation's most preventable form of death. The legislature further finds that one of the most immediate ways to reduce the tragedy of suicide is through suicide awareness and prevention education coupled with safe storage of lethal means commonly used in suicides, such as firearms and prescription medications. The legislature further finds that encouraging firearms dealers to voluntarily participate in suicide awareness and prevention education programs and provide certain safe storage devices at cost is an important step in creating safer homes and reducing suicide deaths in the state.

NEW SECTION. **Sec. 2.** (1)(a) Subject to the availability of amounts appropriated for this specific purpose, a safe homes task force is established to raise public awareness and increase suicide prevention education among new partners who are in key positions to help reduce suicide. The task force shall be administered and staffed by the University of Washington school of social work.

(b) The safe homes task force shall consist of the members comprised of a suicide prevention and firearms subcommittee and a suicide prevention and pharmacy subcommittee, as follows:

(i) The suicide prevention and firearms subcommittee shall consist of the following members and be cochaired by the University of Washington school of social work and a member identified in (b)(i)(A) of this subsection (1):

(A) A representative of the national rifle association and a representative of the second amendment foundation;

(B) Two representatives of suicide prevention organizations, selected by the cochairs of the subcommittee;

(C) Two representatives of the firearms industry, selected by the cochairs of the subcommittee;

(D) Two individuals who are suicide attempt survivors or who have experienced suicide loss, selected by the cochairs of the subcommittee;

(E) Two representatives of law enforcement agencies, selected by the cochairs of the subcommittee;

(F) One representative from the department of health;

(G) One representative from the department of veterans affairs, and one other individual representing veterans to be selected by the cochairs of the subcommittee; and

(H) No more than two other interested parties, selected by the cochairs of the subcommittee.

(ii) The suicide prevention and pharmacy subcommittee shall consist of the following members and be cochaired by the University of Washington school of social work and a member identified in (b)(ii)(A) of this subsection (1):

(A) Two representatives of the Washington state pharmacy association;

(B) Two representatives of retailers who operate pharmacies, selected by the cochairs of the subcommittee;

(C) One faculty member from the University of Washington school of pharmacy and one faculty member from the Washington State University school of pharmacy;

(D) One representative of the department of health;

(E) One representative of the pharmacy quality assurance commission;

(F) Two representatives of the Washington state poison control center;

(G) One representative of the department of veterans affairs, and one other individual representing veterans to be selected by the cochairs of the subcommittee; and

(H) No more than two other interested parties, selected by the cochairs of the subcommittee.

(c) The University of Washington school of social work shall convene the initial meeting of the task force.

(2) The task force shall:

(a) Develop and prepare to disseminate online trainings on suicide awareness and prevention for firearms dealers and their employees and firearm range owners and their employees;

(b) In consultation with the department of fish and wildlife, review the firearm safety pamphlet produced by the department of fish and wildlife under RCW 9.41.310 and, by January 1, 2017, recommend changes to the pamphlet to incorporate information on suicide awareness and prevention;

(c) Develop suicide awareness and prevention messages for posters and brochures that are tailored to be effective for firearms owners for distribution to firearms dealers and firearm ranges;

(d) Develop suicide awareness and prevention messages for posters and brochures for distribution to pharmacies;

(e) In consultation with the department of fish and wildlife, develop strategies for creating and disseminating suicide awareness and prevention information for hunting safety classes, including messages to parents that can be shared during online registration, in either follow up electronic mail communications, or in writing, or both;

(f) Develop suicide awareness and prevention messages for training for the schools of pharmacy and provide input on trainings being developed for community pharmacists;

(g) Provide input to the department of health on the implementation of the safe homes project established in section 3 of this act;

(h) Create a web site that will be a clearinghouse for the newly created suicide awareness and prevention materials developed by the task force; and

(i) Conduct a survey of firearms dealers and firearms ranges in the state to determine the types and amounts of incentives that would be effective in encouraging those entities to participate in the safe homes project created in section 3 of this act;

(j) Create, implement, and evaluate a suicide awareness and prevention pilot program in two counties, one rural and one urban, that have high suicide rates. The pilot program shall include:

(i) Developing and directing advocacy efforts with firearms dealers to pair suicide awareness and prevention training with distribution of safe storage devices;

(ii) Developing and directing advocacy efforts with pharmacies to pair suicide awareness and prevention training with distribution of medication disposal kits and safe storage devices;

(iii) Training health care providers on suicide awareness and prevention, paired with distribution of medication disposal kits and safe storage devices; and

(iv) Training local law enforcement officers on suicide awareness and prevention, paired with distribution of medication disposal kits and safe storage devices.

(3) The task force shall consult with the department of health to develop timelines for the completion of the necessary tasks identified in subsection (2) of this section so that the department of health is able to implement the safe homes project under section 3 of this act by January 1, 2018.

(4) Beginning December 1, 2016, the task force shall annually report to the legislature on the status of its work. The task force shall submit a final report by December 1, 2019, that includes the findings of the suicide awareness and prevention pilot program evaluation under subsection (2) of this section and recommendations on possible continuation of the program. The task force shall submit its reports in accordance with RCW 43.01.036.

(5) This section expires July 1, 2020.

***NEW SECTION.** Sec. 3. A new section is added to chapter 43.70 RCW to read as follows:*

(1) Subject to the availability of amounts appropriated for this specific purpose, the department shall develop and administer a safe homes project for firearms dealers and firearms ranges to encourage voluntary participation in a program to implement suicide awareness and prevention strategies.

(2) As part of the safe homes project, the department shall certify a firearms dealer or firearms range that meets the requirements of subsection (3) of this section as a safe homes partner.

(3) The department, in consultation with the safe homes task force created in section 2 of this act, shall develop criteria for certification of a firearms dealer or firearms range as a safe homes partner that include, at a minimum, the following requirements:

(a) Posting of suicide awareness and prevention posters, developed by the safe homes task force, at the firearms dealer's or firearms range's premises;

(b) Distribution of suicide awareness and prevention brochures, developed by the safe homes task force, to firearms purchasers and customers;

(c) Completion by the firearms dealer and employees, or firearms range and employees, of an online suicide awareness and prevention training developed by the safe homes task force; and

(d) Offering safe storage devices, in the form of a lock box or life jacket, for sale at cost to firearms purchasers, or customers.

(4) The department shall:

(a) Provide technical assistance to firearms dealers and firearms ranges that want to participate in the safe homes project;

(b) Track and report status updates of the program to the legislature in accordance with RCW 43.01.036; and

(c) Conduct, or contract with local health departments to conduct, random audits of businesses who participate in the safe homes project to ensure compliance with the requirements of this section.

(5) The department shall implement the safe homes project beginning January 1, 2018.

(6) For the purposes of this section:

(a) "Firearms dealer" means a firearms dealer licensed under RCW 9.41.110; and

(b) "Firearms range" means an entity that operates an area or facility designed for the safe discharge or other use of firearms for sport, recreational, or competitive shooting or training purposes.

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

Sec. 4. RCW 9.41.310 and 1994 c 264 s 2 are each amended to read as follows:

(1) After a public hearing, the department of fish and wildlife shall publish a pamphlet on firearms safety and the legal limits of the use of firearms. The pamphlet shall include current information on firearms laws and regulations and state preemption of local firearms laws. By July 1, 2017, the department of fish and wildlife shall update the pamphlet to incorporate information on suicide awareness and prevention as recommended by the safe homes task force established in section 2 of this act.

(2) This pamphlet may be used in the department's hunter safety education program and shall be provided to the department of licensing for distribution to firearms dealers and persons authorized to issue concealed pistol licenses. The department of fish and wildlife shall reimburse the department of licensing for costs associated with distribution of the pamphlet.

Sec. 5. RCW 43.70.442 and 2015 c 249 s 1 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)~~)) (10)(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 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 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 pharmacist licensed under chapter 18.64 RCW; and

(x) A person holding a retired active license for one of the professions listed in (a)(i) through (((~~(viii)~~))) (ix) of this subsection.

(b)(i) A professional listed in (a)(i) through (viii) of this subsection or a person holding a retired active license for one of the professions listed in (a)(i) through (viii) of this subsection must complete the one-time training by the end of the first full continuing education reporting period after 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).

(ii) A licensed pharmacist or a person holding a retired active pharmacist license must complete the one-time training by the end of the first full continuing education reporting period after January 1, 2017, or during the first full continuing education reporting period after initial licensure, whichever is later.

(c) The training required by this subsection must be at least six hours in length, unless a disciplining authority has determined, under subsection (((~~(9)~~))) (10)(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) The secretary and the disciplining authorities shall update the list at least once every two years.

(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 and that three-hour trainings for pharmacists include content related to the assessment of issues related to imminent harm via

lethal means. 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 July 24, 2015;

(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 [educator]~~)) educator 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.

(9) The secretary and the disciplining authorities affected by this section shall adopt any rules necessary to implement this section.

(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.

NEW SECTION. **Sec. 6.** The schools of pharmacy at the University of Washington and Washington State University shall convene a work group to jointly develop a curriculum on suicide assessment, treatment, and management for pharmacy students. The curriculum must include material on identifying at-risk patients and limiting access to lethal means. When developing the curriculum, the schools shall consult with experts on suicide assessment, treatment, and management, and with the safe homes task force created in section 2 of this act on appropriate suicide awareness and prevention messaging. The schools of pharmacy shall submit a progress report to the governor and the relevant committees of the legislature by December 1, 2016.

NEW SECTION. **Sec. 7.** By January 1, 2017, the department of health and the pharmacy quality assurance commission shall jointly develop written materials on suicide awareness and prevention that pharmacies may post or distribute to customers. When developing the written materials, the department and the commission shall consult with experts on suicide assessment, treatment, and management, and with the safe homes task force created in section 2 of this act on appropriate suicide awareness and prevention messaging.

NEW SECTION. **Sec. 8.** Section 5 of this act takes effect January 1, 2017.

***NEW SECTION.** Sec. 9. Section 3 of this act expires January 1, 2024.*

Sec. 9 was vetoed. See message at end of chapter.

Passed by the House March 8, 2016.

Passed by the Senate March 1, 2016.

Approved by the Governor March 31, 2016, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 1, 2016.

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

"I am returning herewith, without my approval as to Sections 3 and 9, Engrossed Second Substitute House Bill No. 2793 entitled:

"AN ACT Relating to providing for suicide awareness and prevention education for safer homes."

Section 3 of this bill creates the safe homes project and Section 9 provides for the expiration that section. These two sections are from a prior version of the bill and the final bill was not properly amended to remove them. The bill's prime sponsor and other advocates requested this veto because the work on the safe homes project is premature. The taskforce created in Section 2 of the bill will begin a pilot and provide the necessary ground work to better analyze the potential of this project.

For these reasons I have vetoed Sections 3 and 9 of Engrossed Second Substitute House Bill No. 2793.

With the exception of Sections 3 and 9, Engrossed Second Substitute House Bill No. 2793 is approved."

CHAPTER 91

[House Bill 2384]

MOBILE TELECOMMUNICATIONS SERVICE PROVIDERS--DEFINITION

AN ACT Relating to clarifying the meaning of mobile telecommunications service provider; amending RCW 9A.86.010; and prescribing penalties.

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

Sec. 1. RCW 9A.86.010 and 2015 2nd sp.s. c 7 s 1 are each amended to read as follows:

(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 mobile telecommunications service provider ((~~of public or private mobile service~~)), as defined in ((~~section 13-214 of the public utilities act~~)) RCW 82.04.065; 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.

Passed by the House February 15, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 92

[House Bill 2394]

DEVELOPMENTAL DISABILITIES--PARENT RESOURCES--PARENT TO PARENT PROGRAM

AN ACT Relating to creating the parent to parent program for individuals with developmental disabilities; adding new sections to chapter 71A.14 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** For over thirty years, parent to parent programs for individuals with either developmental disabilities, or special health care needs, or both, have been providing emotional and informational support by matching parents seeking support with an experienced and trained support parent.

The parent to parent program currently exists in thirty-one counties: Adams, Asotin, Benton, Chelan, Clallam, Clark, Columbia, Cowlitz, Douglas, Franklin, Garfield, Grant, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Lincoln, Mason, Pacific, Pierce, Skagit, Snohomish, Spokane, Thurston, Walla

Walla, Whatcom, Whitman, and Yakima. It is the legislature's goal to continue, support, and enhance the programs in these counties and expand these programs statewide by 2021.

NEW SECTION. **Sec. 2.** A new section is added to chapter 71A.14 RCW to read as follows:

The goals of the parent to parent program are to:

(1) Provide early outreach, support, and education to parents who have a child with special health care needs;

(2) Match a trained volunteer support parent with a new parent who has a child with similar needs to the child of the support parent; and

(3) Provide parents with tools and resources to be successful as they learn to understand the support and advocacy needs of their children.

NEW SECTION. **Sec. 3.** A new section is added to chapter 71A.14 RCW to read as follows:

Subject to the availability of funds appropriated for this specific purpose, activities of the parent to parent program may include:

(1) Outreach and support to newly identified parents of children with special health care needs;

(2) Trainings that educate parents in ways to support their child and navigate the complex health, educational, and social systems;

(3) Ongoing peer support from a trained volunteer support parent; and

(4) Regular communication with other local programs to ensure consistent practices.

NEW SECTION. **Sec. 4.** A new section is added to chapter 71A.14 RCW to read as follows:

(1) Subject to the availability of funds appropriated for this specific purpose, the parent to parent program must be funded through the department and centrally administered through a pass-through to a Washington state lead organization that has extensive experience supporting and training support parents.

(2) Through the contract with the lead organization, each local program must be locally administered by an organization that shall serve as the host organization.

(3) Parents shall serve as advisors to the host organizations.

(4) A parent or grandparent of a child with developmental disabilities or special health care needs shall provide program coordination and local program information.

(5) The lead organization shall provide ongoing training to the host organizations and statewide program oversight and maintain statewide program information.

(6) For the purpose of this act, "special health care needs" means disabilities, chronic illnesses or conditions, health related educational or behavioral problems, or the risk of developing such disabilities, conditions, illnesses or problems.

Passed by the House March 8, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 93

[Substitute House Bill 2405]

COURT NOTICES AND RECORDS--ROLE OF PARTIES

AN ACT Relating to the role of parties in cases related to certain notices and records; amending RCW 9.41.047, 28A.405.330, 46.29.270, 46.29.310, 53.48.030, and 13.34.070; and reenacting and amending RCW 13.50.010.

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

Sec. 1. RCW 9.41.047 and 2011 c 193 s 2 are each amended to read as follows:

(1)(a) At the time a person is convicted or found not guilty by reason of insanity of an offense making the person ineligible to possess a firearm, or at the time a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW for mental health treatment, the convicting or committing court shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a court of record. For purposes of this section a convicting court includes a court in which a person has been found not guilty by reason of insanity.

(b) The convicting or committing court shall forward within three judicial days after conviction or entry of the commitment order a copy of the person's driver's license or identicard, or comparable information, along with the date of conviction or commitment, to the department of licensing. When a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW, for mental health treatment, the committing court also shall forward, within three judicial days after entry of the commitment order, a copy of the person's driver's license, or comparable information, along with the date of commitment, to the national instant criminal background check system index, denied persons file, created by the federal Brady handgun violence prevention act (P.L. 103-159). The petitioning party shall provide the court with the information required. If more than one commitment order is entered under one cause number, only one notification to the department of licensing and the national instant criminal background check system is required.

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the convicted or committed person has a concealed pistol license. If the person does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of such notification, shall immediately revoke the license.

(3)(a) A person who is prohibited from possessing a firearm, by reason of having been involuntarily committed for mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction may, upon discharge, petition the superior court to have his or her right to possess a firearm restored.

(b) The petition must be brought in the superior court that ordered the involuntary commitment or the superior court of the county in which the petitioner resides.

(c) Except as provided in (d) of this subsection, the court shall restore the petitioner's right to possess a firearm if the petitioner proves by a preponderance of the evidence that:

(i) The petitioner is no longer required to participate in court-ordered inpatient or outpatient treatment;

(ii) The petitioner has successfully managed the condition related to the commitment;

(iii) The petitioner no longer presents a substantial danger to himself or herself, or the public; and

(iv) The symptoms related to the commitment are not reasonably likely to recur.

(d) If a preponderance of the evidence in the record supports a finding that the person petitioning the court has engaged in violence and that it is more likely than not that the person will engage in violence after his or her right to possess a firearm is restored, the person shall bear the burden of proving by clear, cogent, and convincing evidence that he or she does not present a substantial danger to the safety of others.

(e) When a person's right to possess a firearm has been restored under this subsection, the court shall forward, within three judicial days after entry of the restoration order, notification that the person's right to possess a firearm has been restored to the department of licensing, the department of social and health services, and the national instant criminal background check system index, denied persons file.

(4) No person who has been found not guilty by reason of insanity may petition a court for restoration of the right to possess a firearm unless the person meets the requirements for the restoration of the right to possess a firearm under RCW 9.41.040(4).

Sec. 2. RCW 13.50.010 and 2015 c 265 s 2 and 2015 c 262 s 1 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;

(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~~)) notices of hearing or appearance, service documents, witness and exhibit lists, findings of the court and court orders, agreements, judgments, decrees, notices of appeal, as well as documents

prepared by the clerk, including court minutes, letters, warrants, waivers, affidavits, declarations, invoices, and the index to clerk papers;

(d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

(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.

(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.

Sec. 3. RCW 28A.405.330 and 1990 c 33 s 398 are each amended to read as follows:

The ((~~clerk of the superior court~~)) filing party, within ten days of ((~~receipt of~~)) filing the notice of appeal shall notify in writing the chair of the school board of the taking of the appeal, and within twenty days thereafter the school board shall at its expense file the complete transcript of the evidence and the papers and exhibits relating to the decision complained of, all properly certified to be correct.

Sec. 4. RCW 46.29.270 and 1999 c 296 s 2 are each amended to read as follows:

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section.

(1) The term "judgment" shall mean: Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any vehicle of a type subject to registration under the laws of this state, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages. The first page of a judgment must include a judgment summary that states damages are awarded under this section and the ((~~clerk of the court~~)) judgment creditor must give notice as outlined in RCW 46.29.310.

(2) The term "state" shall mean: Any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

Sec. 5. RCW 46.29.310 and 2010 c 8 s 9039 are each amended to read as follows:

Whenever any person fails within thirty days to satisfy any judgment, then it shall be the duty of the ((~~clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state~~)) judgment creditor to forward immediately to the department the following:

(1) A certified copy or abstract of such judgment;

(2) A certificate of facts relative to such judgment;

(3) Where the judgment is by default, a certified copy or abstract of that portion of the record which indicates the manner in which service of summons was effectuated and all the measures taken to provide the defendant with timely and actual notice of the suit against him or her.

Sec. 6. RCW 53.48.030 and 1941 c 87 s 3 are each amended to read as follows:

Upon the filing of such petition for an order of dissolution, the superior court shall enter an order setting the same for hearing at a date not less than thirty days from the date of filing, and the ((~~clerk of the court of said county~~)) petitioner shall give notice of such hearing by publication in a newspaper of general circulation in the county in which the district is located once a week for three successive weeks, and by posting in three public places in the county in which the district is located at least twenty-one days before said hearing. At least one notice shall be posted in the district. The notices shall set forth the filing of the petition, its purpose and the date and place of the hearing thereon.

Sec. 7. RCW 13.34.070 and 2011 c 309 s 25 are each amended to read as follows:

(1) Upon the filing of the petition, the ((~~clerk of the court~~)) petitioner shall issue a summons, one directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as

appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the petition. If the child is developmentally disabled and not living at home, the notice shall be given to the child's custodian as well as to the child's parent. The developmentally disabled child shall not be required to appear unless requested by the court. When the custodian is summoned, the parent or guardian or both shall also be served with a summons. The fact-finding hearing on the petition shall be held no later than seventy-five days after the filing of the petition, unless exceptional reasons for a continuance are found. The party requesting the continuance shall have the burden of proving by a preponderance of the evidence that exceptional circumstances exist. To ensure that the hearing on the petition occurs within the seventy-five day time limit, the court shall schedule and hear the matter on an expedited basis.

(2) A copy of the petition shall be attached to each summons.

(3) The summons shall advise the parties of the right to counsel. The summons shall also inform the child's parent, guardian, or legal custodian of his or her right to appointed counsel, if indigent, and of the procedure to use to secure appointed counsel.

(4) The summons shall advise the parents that they may be held responsible for the support of the child if the child is placed in out-of-home care.

(5) The judge may endorse upon the summons an order directing any parent, guardian, or custodian having the custody or control of the child to bring the child to the hearing.

(6) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the child needs to be taken into custody pursuant to RCW 13.34.050, the judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody and take him or her to the place of shelter designated by the court.

(7) If the person summoned as provided in this section is subject to an order of the court pursuant to subsection (5) or (6) of this section, and if the person fails to abide by the order, he or she may be proceeded against as for contempt of court. The order endorsed upon the summons shall conspicuously display the following legend:

NOTICE:
VIOLATION OF THIS ORDER
IS SUBJECT TO PROCEEDING
FOR CONTEMPT OF COURT
PURSUANT TO RCW 13.34.070.

(8) If a party to be served with a summons can be found within the state, the summons shall be served upon the party personally as soon as possible following the filing of the petition, but in no case later than fifteen court days before the fact-finding hearing, or such time as set by the court. If the party is within the state and cannot be personally served, but the party's address is known or can with reasonable diligence be ascertained, the summons may be served upon the party by mailing a copy by certified mail as soon as possible following the filing of the petition, but in no case later than fifteen court days before the hearing, or

such time as set by the court. If a party other than the child is without the state but can be found or the address is known, or can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy to the party personally or by mailing a copy thereof to the party by certified mail at least ten court days before the fact-finding hearing, or such time as set by the court.

(9) Service of summons may be made under the direction of the court by any person eighteen years of age or older who is not a party to the proceedings or by any law enforcement officer, probation counselor, or department employee.

(10) Whenever the court or the petitioning party in a proceeding under this chapter knows or has reason to know that an Indian child as defined in RCW 13.38.040 is involved, the petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall comply with RCW 13.38.070.

Passed by the House February 11, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 94

[Substitute House Bill 2410]

FELONY FIREARM OFFENSE CONVICTION DATABASE--MANDATORY INCLUSION

AN ACT Relating to requiring information about certain criminal defendants be included in the felony firearm offense conviction database; and amending RCW 9.41.330.

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

Sec. 1. RCW 9.41.330 and 2013 c 183 s 3 are each amended to read as follows:

(1) On or after ((~~July 28, 2013~~)) the effective date of this section, except as provided in subsection (3) of this section, whenever a defendant in this state is convicted of a felony firearm offense or found not guilty by reason of insanity of any felony firearm offense, the court must consider whether to impose a requirement that the person comply with the registration requirements of RCW 9.41.333 and may, in its discretion, impose such a requirement.

(2) In determining whether to require the person to register, the court shall consider all relevant factors including, but not limited to:

(a) The person's criminal history;

(b) Whether the person has previously been found not guilty by reason of insanity of any offense in this state or elsewhere; and

(c) Evidence of the person's propensity for violence that would likely endanger persons.

(3) When a person is convicted of a felony firearm offense or found not guilty by reason of insanity of any felony firearm offense that was committed in conjunction with any of the following offenses, the court must impose a requirement that the person comply with the registration requirements of RCW 9.41.333:

(a) An offense involving sexual motivation;

(b) An offense committed against a child under the age of eighteen; or

(c) A serious violent offense.

(4) For purposes of this section, "sexual motivation" and "serious violent offense" are defined as in RCW 9.94A.030.

Passed by the House February 15, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 95

[Substitute House Bill 2427]

LOCAL GOVERNMENTS--MODERNIZATION

AN ACT Relating to local government modernization; amending RCW 19.360.020, 19.360.030, 19.360.040, 19.360.050, 19.360.060, 36.62.252, 36.32.235, 36.32.245, 35.58.585, and 36.57A.030; and creating a new section.

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

NEW SECTION. **Sec. 1.** Local governments must be efficient and prudent stewards of our residents' tax resources. To best serve our communities, certain local government statutes must be amended to reflect technological and organizational change. It is the intent of the legislature to clarify current authorities so that local government can better serve their residents, and it is the intent of the legislature that the following sections allow local government to pursue modern methods of serving their residents while preserving the public's right to access public records, and judiciously using scarce county resources to achieve maximum benefit.

Sec. 2. RCW 19.360.020 and 2015 c 72 s 2 are each amended to read as follows:

(1) Unless specifically provided otherwise by law or agency rule, whenever the use of a written signature is authorized or required by this code with a state or local agency, an electronic signature may be used with the same force and effect as the use of a signature affixed by hand, as long as the electronic signature conforms to the definition in RCW 19.360.030 and the writing conforms to RCW 19.360.040.

(2) Except as otherwise provided by law, each state or local agency may determine whether, and to what extent, the agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures. Nothing in this act requires a state or local agency to send or accept electronic records or electronic signatures when a writing or signature is required by statute.

(3) Except as otherwise provided by law, for governmental affairs and governmental transactions with state agencies, each state agency electing to send and accept shall establish the method that must be used for electronic submissions and electronic signatures. The method and process for electronic submissions and the use of electronic signatures must be established by policy or rule and be consistent with the policies, standards, or guidance established by the chief information officer required in subsection (4) of this section.

(4)(a) The chief information officer, in coordination with state agencies, must establish standards, guidelines, or policies for the electronic submittal and receipt of electronic records and electronic signatures for governmental affairs and governmental transactions. The standards, policies, or guidelines must take into account reasonable access by and ability of persons to participate in governmental affairs or governmental transactions and be able to rely on transactions that are conducted electronically with agencies. Through the standards, policies, or guidelines, the chief information officer should encourage and promote consistency and interoperability among state agencies.

(b) In order to provide a single point of access, the chief information officer must establish a web site that maintains or links to the agency rules and policies established pursuant to subsection (3) of this section.

(5) Except as otherwise provided by law, for governmental affairs and governmental transactions with local agencies, each local agency electing to send and accept shall establish the method that must be used for electronic submissions and electronic signatures. The method and process for electronic submissions and the use of electronic signatures must be established by ordinance, resolution, policy, or rule. The local agency shall also establish standards, guidelines, or policies for the electronic submittal and receipt of electronic records and electronic signatures for governmental affairs and governmental transactions. The standards, policies, or guidelines must take into account reasonable access by and ability of persons to participate in governmental affairs or governmental transactions and be able to rely on transactions that are conducted electronically with agencies.

Sec. 3. RCW 19.360.030 and 2015 c 72 s 3 are each amended to read as follows:

(1) Unless specifically provided otherwise by law or rule or unless the context clearly indicates otherwise, whenever the term "signature" is used in this code for governmental affairs and is authorized by state or local agency ordinance, resolution, rule, or policy pursuant to RCW 19.360.020, the term includes an electronic signature as defined in subsection (2) of this section.

(2) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.

Sec. 4. RCW 19.360.040 and 2015 c 72 s 4 are each amended to read as follows:

(1) Unless specifically provided otherwise by law or rule or unless the context clearly indicates otherwise, whenever the term "writing" is used in this code for governmental affairs and is authorized by state or local agency ordinance, resolution, rule, or policy pursuant to RCW 19.360.020, the term means a record.

(2) "Record," as used in subsection (1) of this section, 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, except as otherwise defined for the purpose of state or local agency record retention, preservation, or disclosure.

Sec. 5. RCW 19.360.050 and 2015 c 72 s 5 are each amended to read as follows:

(1) Unless specifically provided otherwise by law or rule or unless the context clearly indicates otherwise, whenever the term "mail" is used in this code and authorized by state or local agency ordinance, resolution, rule, or policy pursuant to RCW 19.360.020 to transmit a writing with a state or local agency, the term includes the use of mail delivered through an electronic system such as email or secure mail transfer if authorized by the state agency in rule.

(2) For the purposes of this section, "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

Sec. 6. RCW 19.360.060 and 2015 c 72 s 6 are each amended to read as follows:

For purposes of RCW 19.360.020 through 19.360.050, "state agency" means any state board, commission, bureau, committee, department, institution, division, or tribunal in the executive branch of state government, including statewide elected offices and institutions of higher education created and supported by the state government. "Local agency" means every county, city, town, municipal corporation, quasi-municipal corporation, special purpose district, or other local public agency.

Sec. 7. RCW 36.62.252 and 1984 c 26 s 20 are each amended to read as follows:

Every county which maintains a county hospital or infirmary shall establish a "county hospital fund" into which fund shall be deposited all unrestricted moneys received from any source for hospital or infirmary services including money received for services to recipients of public assistance and other persons without income and resources sufficient to secure such services. The county may maintain other funds for restricted moneys. Obligations incurred by the hospital shall be paid from such funds by the county treasurer in the same manner as general county obligations are paid, except that in counties where a contract has been executed in accordance with RCW 36.62.290, warrants may be issued by the hospital administrator for the hospital, if authorized by the county legislative authority and the county treasurer. The county treasurer shall furnish to the county legislative authority a monthly report of receipts and disbursements in the county hospital funds which report shall also show the balance of cash on hand.

Sec. 8. RCW 36.32.235 and 2009 c 229 s 6 are each amended to read as follows:

(1) In each county with a population of four hundred thousand or more which by resolution establishes a county purchasing department, the purchasing department shall enter into leases of personal property on a competitive basis and purchase all supplies, materials, and equipment on a competitive basis, for all departments of the county, as provided in this chapter and chapter 39.04 RCW, except that the county purchasing department is not required to make purchases that are paid from the county road fund or equipment rental and revolving fund.

(2) As used in this section, "public works" has the same definition as in RCW 39.04.010.

(3) Except as otherwise specified in this chapter or in chapter 36.77 RCW, all counties subject to these provisions shall contract on a competitive basis for

all public works after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection.

(4) An advertisement shall be published in the county official newspaper stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, the materials and equipment to be furnished, and that specifications therefor may be seen at the office of the clerk of the county legislative authority. An advertisement shall also be published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done. If the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done, then the publication of an advertisement of the applicable specifications in the county official newspaper is sufficient. Such advertisements shall be published at least once at least thirteen days prior to the last date upon which bids will be received.

(5) The bids shall be in writing, may be in either hard copy or electronic form as specified by the county, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in the advertisements, and after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed.

(6) The contract for the public work shall be awarded to the lowest responsible bidder. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law.

(7) If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

(8) As limited by subsection (10) of this section, a county subject to these provisions may have public works performed by county employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period.

Whenever a county subject to these provisions has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works except emergency work under subsection (12) of this section within that budget period shall be done by contract pursuant to public notice and call for competitive bids as specified in subsection (3) of this section. The state auditor shall report to the state treasurer any county subject to these provisions that exceeds this amount and the extent to

which the county has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(9) If a county subject to these provisions has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that county in its next budget period. Ten percent of the motor vehicle fuel tax distributions to that county shall be withheld if two years after the year in which the excess amount of work occurred, the county has failed to so reduce the amount of public works that it has performed by public employees. The amount withheld shall be distributed to the county when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been reduced as required.

(10) In addition to the percentage limitation provided in subsection (8) of this section, counties subject to these provisions containing a population of four hundred thousand or more shall not have public employees perform a public works project in excess of ninety thousand dollars if more than a single craft or trade is involved with the public works project, or a public works project in excess of forty-five thousand dollars if only a single craft or trade is involved with the public works project. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by public employees on a single project.

The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(11) In addition to the accounting and recordkeeping requirements contained in chapter 39.04 RCW, any county which uses public employees to perform public works projects under RCW 36.32.240(1) shall prepare a year-end report to be submitted to the state auditor indicating the total dollar amount of the county's public works construction budget and the total dollar amount for public works projects performed by public employees for that year.

The year-end report submitted pursuant to this subsection to the state auditor shall be in accordance with the standard form required by RCW 43.09.205.

(12) Notwithstanding any other provision in this section, counties may use public employees without any limitation for emergency work performed under an emergency declared pursuant to RCW 36.32.270, and any such emergency work shall not be subject to the limitations of this section. Publication of the description and estimate of costs relating to correcting the emergency may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the county legislative authority shall adopt a resolution certifying the damage to public facilities and costs incurred or anticipated relating to correcting the emergency. Additionally this section shall not apply to architectural and engineering or other technical or professional services performed by public employees in connection with a public works project.

(13) In lieu of the procedures of subsections (3) through (11) of this section, a county may let contracts using the small works roster process provided in RCW 39.04.155.

Whenever possible, the county shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(14) The allocation of public works projects to be performed by county employees shall not be subject to a collective bargaining agreement.

(15) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A RCW.

(16) Nothing in this section prohibits any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(17) This section does not apply to contracts between the public stadium authority and a team affiliate under RCW 36.102.060(4), or development agreements between the public stadium authority and a team affiliate under RCW 36.102.060(7) or leases entered into under RCW 36.102.060(8).

Sec. 9. RCW 36.32.245 and 2007 c 88 s 1 are each amended to read as follows:

(1) No contract for the purchase of materials, equipment, or supplies may be entered into by the county legislative authority or by any elected or appointed officer of the county until after bids have been submitted to the county. Bid specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection. An advertisement shall be published in the official newspaper of the county stating the time and place where bids will be opened, the time after which bids will not be received, the materials, equipment, supplies, or services to be purchased, and that the specifications may be seen at the office of the clerk of the county legislative authority. The advertisement shall be published at least once at least thirteen days prior to the last date upon which bids will be received.

(2) The bids shall be in writing, may be in either hard copy or electronic form as specified by the county, and shall be filed with the clerk. The bids shall be opened and read in public at the time and place named in the advertisement. Contracts requiring competitive bidding under this section may be awarded only to the lowest responsible bidder. Immediately after the award is made, the bid quotations shall be recorded and open to public inspection and shall be available by telephone inquiry. Any or all bids may be rejected for good cause.

(3) For advertisement and formal sealed bidding to be dispensed with as to purchases between ((~~five~~)) ten thousand and ((~~twenty-five~~)) fifty thousand dollars, the county legislative authority must use the uniform process to award contracts as provided in RCW 39.04.190. Advertisement and formal sealed bidding may be dispensed with as to purchases of less than ((~~five~~)) ten thousand dollars upon the order of the county legislative authority.

(4) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A RCW; or contracts and purchases for the printing of election ballots, voting machine labels, and all other election material containing the names of candidates and ballot titles.

(5) Nothing in this section shall prohibit the legislative authority of any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(6) This section does not apply to contracting for public defender services by a county.

Sec. 10. RCW 35.58.585 and 2008 c 123 s 2 are each amended to read as follows:

(1) Both a metropolitan municipal corporation and a city-owned transit system may establish, by resolution, a schedule of fines and penalties for civil infractions established in RCW 35.58.580. Fines established shall not exceed those imposed for class 1 infractions under RCW 7.80.120.

(2)(a) Both a metropolitan municipal corporation and a city-owned transit system may designate persons to monitor fare payment who are equivalent to, and are authorized to exercise all the powers of, an enforcement officer as defined in RCW 7.80.040. Both a metropolitan municipal corporation and a city-owned transit system may employ personnel to either monitor fare payment or contract for such services, or both.

(b) In addition to the specific powers granted to enforcement officers under RCW 7.80.050 and 7.80.060, persons designated to monitor fare payment may also take the following actions:

(i) Request proof of payment from passengers;

(ii) Request personal identification from a passenger who does not produce proof of payment when requested;

(iii) Issue a citation for a civil infraction established in RCW 35.58.580 conforming to the requirements established in RCW 7.80.070, except that the form for the notice of civil infraction must be approved by the administrative office of the courts and must not include vehicle information; and

(iv) Request that a passenger leave the bus or other mode of public transportation when the passenger has not produced proof of payment after being asked to do so by a person designated to monitor fare payment.

(3) Both a metropolitan municipal corporation and a city-owned transit system shall keep records of citations in the manner prescribed by RCW 7.80.150. All civil infractions established by this section and RCW 35.58.580 and 35.58.590 shall be heard and determined by a district court as provided in RCW 7.80.010 (1) and (4).

Sec. 11. RCW 36.57A.030 and 1977 ex.s. c 44 s 1 are each amended to read as follows:

Any conference which finds it desirable to establish a public transportation benefit area or change the boundaries of any existing public transportation benefit area shall fix a date for a public hearing thereon, or the legislative bodies of any two or more component cities or the county legislative body by resolution may require the public transportation improvement conference to fix a date for a public hearing thereon. Prior to the convening of the public hearing, the county governing body shall delineate the area of the county proposed to be included within the transportation benefit area, and shall furnish a copy of such delineation to each incorporated city within such area. Each city shall advise the county governing body, on a preliminary basis, of its desire to be included or excluded from the transportation benefit area by means of an ordinance adopted

by the legislative body of that city. The county governing body shall cause the delineations to be revised to reflect the wishes of such incorporated cities. This delineation shall be considered by the conference at the public hearing for inclusion in the public transportation benefit area.

Notice of such hearing shall be published once a week for at least four consecutive weeks in one or more newspapers of general circulation within the area. The notice shall contain a description and map of the boundaries of the proposed public transportation benefit area and shall state the time and place of the hearing and the fact that any changes in the boundaries of the public transportation benefit area will be considered at such time and place. At such hearing or any continuation thereof, any interested person may appear and be heard on all matters relating to the effect of the formation of the proposed public transportation benefit area.

The conference may make such changes in the boundaries of the public transportation benefit area as they shall deem reasonable and proper, but may not delete any portion of the proposed area which will create an island of included or excluded lands, and may not delete a portion of any city. If the conference shall determine that any additional territory should be included in the public transportation benefit area, a second hearing shall be held and notice given in the same manner as for the original hearing. The conference may adjourn the hearing on the formation of a public transportation benefit area from time to time not exceeding thirty days in all.

Following the conclusion of such hearing the conference shall adopt a resolution fixing the boundaries of the proposed public transportation benefit area, declaring that the formation of the proposed public transportation benefit area will be conducive to the welfare and benefit of the persons and property therein.

Within thirty days of the adoption of such conference resolution, the county legislative authority of each county wherein a conference has established proposed boundaries of a public transportation benefit area, may by resolution, upon making a legislative finding that the proposed benefit area includes portions of the county which could not be reasonably expected to benefit from such benefit area or excludes portions of the county which could be reasonably expected to benefit from its creation, disapprove and terminate the establishment of such public transportation benefit area within such county.

Passed by the House March 10, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 96

[Engrossed Second Substitute House Bill 2439]

CHILDREN AND YOUTH--MENTAL HEALTH SERVICES

AN ACT Relating to increasing access to adequate and appropriate mental health services for children and youth; amending RCW 28A.310.500; adding a new section to chapter 74.09 RCW; creating new sections; and providing expiration dates.

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

NEW SECTION. **Sec. 1.** (1) The legislature understands that adverse childhood experiences, such as family mental health issues, substance abuse, serious economic hardship, and domestic violence, all increase the likelihood of developmental delays and later health and mental health problems. The legislature further understands that early intervention services for children and families at high risk for adverse childhood experience help build secure parent-child attachment and bonding, which allows young children to thrive and form strong relationships in the future. The legislature finds that early identification and intervention are critical for children exhibiting aggressive or depressive behaviors indicative of early mental health problems. The legislature intends to improve access to adequate, appropriate, and culturally responsive mental health services for children and youth. The legislature further intends to encourage the use of behavioral health therapies and other therapies that are empirically supported or evidence-based and only prescribe medications for children and youth as a last resort.

(2) The legislature finds that nearly half of Washington's children are enrolled in medicaid and have a higher incidence of serious health problems compared to children who have commercial insurance. The legislature recognizes that disparities also exist in the diagnosis and initiation of treatment services for children of color, with studies demonstrating that children of color are diagnosed and begin receiving early interventions at a later age. The legislature finds that within the current system of care, families face barriers to receiving a full range of services for children experiencing behavioral health problems. The legislature intends to identify what network adequacy requirements, if strengthened, would increase access, continuity, and coordination of behavioral health services for children and families. The legislature further intends to encourage managed care plans and behavioral health organizations to contract with the same providers that serve children so families are not required to duplicate mental health screenings, and to recommend provider rates for mental health services to children and youth which will ensure an adequate network and access to quality based care.

(3) The legislature recognizes that early and accurate recognition of behavioral health issues coupled with appropriate and timely intervention enhances health outcomes while minimizing overall expenditures. The legislature intends to assure that annual depression screenings are done consistently with the highly vulnerable medicaid population and that children and families benefit from earlier access to services.

NEW SECTION. **Sec. 2.** (1) The children's mental health work group is established to identify barriers to accessing mental health services for children and families, and to advise the legislature on statewide mental health services for this population.

(2)(a) The work group shall include diverse, statewide representation from the public and nonprofit and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(b) The work group shall consist of not more than twenty-five members, as follows:

(i) The president of the senate shall appoint one member and one alternative member from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint one member and one alternative member from each of the two largest caucuses in the house of representatives.

(iii) The governor shall appoint at least one representative from each of the following: The department of early learning, the department of social and health services, the health care authority, the department of health, and a representative of the governor.

(iv) The superintendent of public instruction shall appoint one representative from the office of the superintendent of public instruction.

(v) The governor shall request participation by a representative of tribal governments.

(vi) The governor shall appoint one representative from each of the following: Behavioral health organizations, community mental health agencies, medicaid managed care organizations, pediatricians or primary care providers, providers that specialize in early childhood mental health, child health advocacy groups, early learning and child care providers, the managed health care plan for foster children, the evidence-based practice institute, parents or caregivers who have been a recipient of early childhood mental health services, and foster parents.

(c) The work group shall seek input and participation from stakeholders interested in the improvement of statewide mental health services for children and families.

(d) The work group shall choose two cochairs, one from among its legislative membership and one representative of a state agency. The representative from the health care authority shall convene the initial meeting of the work group.

(3) The children's mental health work group shall review the barriers that exist to identifying and treating mental health issues in children with a particular focus on birth to five and report to the appropriate committees of the legislature. At a minimum the work group must:

(a) Review and recommend developmentally, culturally, and linguistically appropriate assessment tools and diagnostic approaches that managed care plans and behavioral health organizations should use as the mechanism to establish eligibility for services;

(b) Identify and review billing issues related to serving the parent or caregiver in a treatment dyad and the billing issues related to services that are appropriate for serving children, including children birth to five;

(c) Evaluate and identify barriers to billing and payment for behavioral health services provided within primary care settings in an effort to promote and increase the use of behavioral health professionals within primary care settings;

(d) Review workforce issues related to serving children and families, including issues specifically related to birth to five;

(e) Recommend strategies for increasing workforce diversity and the number of professionals qualified to provide children's mental health services;

(f) Review and make recommendations on the development and adoption of standards for training and endorsement of professionals to become qualified to provide mental health services to children birth to five and their parents or caregivers;

(g) Analyze, in consultation with the department of early learning, the health care authority, and the department of social and health services, existing and potential mental health supports for child care providers to reduce expulsions of children in child care and preschool; and

(h) Identify outreach strategies that will successfully disseminate information to parents, providers, schools, and other individuals who work with children and youth on the mental health services offered through the health care plans, including referrals to parenting programs, community providers, and behavioral health organizations.

(4) Legislative members of the work group are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(5) The expenses of the work group must be paid jointly by the senate and the house of representatives. Work group 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 work group shall report its findings and recommendations to the appropriate committees of the legislature by December 1, 2016.

(7) Staff support for the committee must be provided by the house of representatives office of program research, the senate committee services, and the office of financial management.

(8) This section expires December 1, 2017.

NEW SECTION. **Sec. 3.** A new section is added to chapter 74.09 RCW to read as follows:

To better assure and understand issues related to network adequacy and access to services, the authority and the department shall report to the appropriate committees of the legislature by December 1, 2017, and annually thereafter, on the status of access to behavioral health services for children birth through age seventeen using data collected pursuant to RCW 70.320.050. At a minimum, the report must include the following components broken down by age, gender, and race and ethnicity:

(1) The percentage of discharges for patients ages six through seventeen who had a visit to the emergency room with a primary diagnosis of mental health or alcohol or other drug dependence during the measuring year and who had a follow-up visit with any provider with a corresponding primary diagnosis of mental health or alcohol or other drug dependence within thirty days of discharge;

(2) The percentage of health plan members with an identified mental health need who received mental health services during the reporting period; and

(3) The percentage of children served by behavioral health organizations, including the types of services provided.

NEW SECTION. **Sec. 4.** (1) The joint legislative audit and review committee shall conduct an inventory of the mental health service models available to students in schools, school districts, and educational service districts and report its findings by October 31, 2016. The report must be submitted to the

appropriate committees of the house of representatives and the senate, in accordance with RCW 43.01.036.

(2) The committee must perform the inventory using data that is already collected by schools, school districts, and educational service districts. The committee must not collect or review student-level data and must not include student-level data in the report.

(3) The inventory and report must include information on the following:

(a) How many students are served by mental health services funded with nonbasic education appropriations in each school, school district, or educational service district;

(b) How many of these students are participating in medicaid programs;

(c) How the mental health services are funded, including federal, state, local, and private sources;

(d) Information on who provides the mental health services, including district employees and contractors; and

(e) Any other available information related to student access and outcomes.

(4) The duties of this section must be carried out within existing appropriations.

(5) This section expires July 1, 2017.

Sec. 5. RCW 28A.310.500 and 2013 c 197 s 6 are each amended to read as follows:

(1) Each educational service district shall develop and maintain the capacity to offer training for educators and other school district staff on youth suicide screening and referral, and on recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, and youth suicide. An educational service district may demonstrate capacity by employing staff with sufficient expertise to offer the training or by contracting with individuals or organizations to offer the training. Training may be offered on a fee-for-service basis, or at no cost to school districts or educators if funds are appropriated specifically for this purpose or made available through grants or other sources.

(2)(a) Subject to the availability of amounts appropriated for this specific purpose, Forefront at the University of Washington shall convene a one-day in-person training of student support staff from the educational service districts to deepen the staff's capacity to assist schools in their districts in responding to concerns about suicide. Educational service districts shall send staff members to the one-day in-person training within existing resources.

(b) Subject to the availability of amounts appropriated for this specific purpose, after establishing these relationships with the educational service districts, Forefront at the University of Washington must continue to meet with the educational service districts via videoconference on a monthly basis to answer questions that arise for the educational service districts, and to assess the feasibility of collaborating with the educational service districts to develop a multiyear, statewide rollout of a comprehensive school suicide prevention model involving regional trainings, on-site coaching, and cohorts of participating schools in each educational service district.

(c) Subject to the availability of amounts appropriated for this specific purpose, Forefront at the University of Washington must work to develop

public-private partnerships to support the rollout of a comprehensive school suicide prevention model across Washington's middle and high schools.

(d) The comprehensive school suicide prevention model must consist of:

(i) School-specific revisions to safe school plans required under RCW 28A.320.125, to include procedures for suicide prevention, intervention, assessment, referral, reentry, and intervention and recovery after a suicide attempt or death;

(ii) Developing, within the school, capacity to train staff, teachers, parents, and students in how to recognize and support a student who may be struggling with behavioral health issues;

(iii) Improved identification such as screening, and response systems such as family counseling, to support students who are at risk;

(iv) Enhanced community-based linkages of support; and

(v) School selection of appropriate curricula and programs to enhance student awareness of behavioral health issues to reduce stigma, and to promote resilience and coping skills.

(e) Subject to the availability of amounts appropriated for this specific purpose, and by December 15, 2017, Forefront at the University of Washington shall report to the appropriate committees of the legislature, in accordance with RCW 43.01.036, with the outcomes of the educational service district trainings, any public-private partnership developments, and recommendations on ways to work with the educational service districts or others to implement suicide prevention.

NEW SECTION. **Sec. 6.** If specific funding for the purposes of this act, with the exception of sections 1, 2, and 3 of this act, referencing this act by bill or chapter number, is not provided by June 30, 2016, in the omnibus appropriations act, this act, except for sections 1, 2, and 3 of this act, is null and void.

Passed by the House March 10, 2016.
Passed by the Senate March 10, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 97

[Substitute House Bill 2448]

EAST ASIAN MEDICINE--POINT INJECTION THERAPY AND PRESCRIPTIONS

AN ACT Relating to the practice of certain East Asian medicine therapies; amending RCW 18.06.010; reenacting and amending RCW 69.41.010; adding a new section to chapter 18.06 RCW; and creating a new section.

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

Sec. 1. RCW 18.06.010 and 2010 c 286 s 2 are each amended to read as follows:

The following terms in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "East Asian medicine" means a health care service utilizing East Asian medicine diagnosis and treatment to promote health and treat organic or functional disorders and includes the following:

(a) Acupuncture, including the use of acupuncture needles or lancets to directly and indirectly stimulate acupuncture points and meridians;

(b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(c) Moxibustion;

(d) Acupressure;

(e) Cupping;

(f) Dermal friction technique;

(g) Infra-red;

(h) Sonopuncture;

(i) Laserpuncture;

(j) Point injection therapy (aquapuncture), as defined in rule by the department. Point injection therapy includes injection of substances, limited to saline, sterile water, herbs, minerals, vitamins in liquid form, and homeopathic and nutritional substances, consistent with the practice of East Asian medicine. Point injection therapy does not include injection of controlled substances contained in Schedules I through V of the uniform controlled substances act, chapter 69.50 RCW or steroids as defined in RCW 69.41.300;

(k) Dietary advice and health education based on East Asian medical theory, including the recommendation and sale of herbs, vitamins, minerals, and dietary and nutritional supplements;

(l) Breathing, relaxation, and East Asian exercise techniques;

(m) Qi gong;

(n) East Asian massage and Tui na, which is a method of East Asian bodywork, characterized by the kneading, pressing, rolling, shaking, and stretching of the body and does not include spinal manipulation; and

(o) Superficial heat and cold therapies.

(2) "East Asian medicine practitioner" means a person licensed under this chapter.

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

(4) "Secretary" means the secretary of health or the secretary's designee.

Nothing in this chapter requires individuals to be licensed as an East Asian medicine practitioner in order to provide the techniques and services in subsection (1)(k) through (o) of this section or to sell herbal products.

Sec. 2. RCW 69.41.010 and 2013 c 276 s 1 and 2013 c 19 s 55 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Community-based care settings" include: Community residential programs for persons with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(3) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(4) "Department" means the department of health.

(5) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(6) "Dispenser" means a practitioner who dispenses.

(7) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(8) "Distributor" means a person who distributes.

(9) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of human beings or animals; and

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(10) "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 transmitted verbally by telephone nor a facsimile manually signed by the practitioner.

(11) "In-home care settings" include an individual's place of temporary and permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings.

(12) "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(13) "Legible prescription" means a prescription or medication order issued by a practitioner that is capable of being read and understood by the pharmacist filling the prescription or the nurse or other practitioner implementing the medication order. A prescription must be hand printed, typewritten, or electronically generated.

(14) "Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department. A nonpractitioner may help in the preparation of legend drugs or controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that

such medication preparation assistance is necessary and appropriate. Medication assistance shall not include assistance with intravenous medications or injectable medications, except prefilled insulin syringes.

(15) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(16) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, an East Asian medicine practitioner to the extent authorized under chapter 18.06 RCW and the rules adopted under RCW 18.06.010(1)(j), a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, an osteopathic physician assistant under chapter 18.57A RCW, a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a pharmacist under chapter 18.64 RCW, or, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

(17) "Secretary" means the secretary of health or the secretary's designee.

NEW SECTION. **Sec. 3.** The department of health, in consultation with the East Asian medicine advisory committee established in RCW 18.06.220, shall establish by rule the definition of "point injection therapy" and shall adopt rules regarding substances administered as part of point injection therapy consistent with the practice of East Asian medicine.

NEW SECTION. **Sec. 4.** A new section is added to chapter 18.06 RCW to read as follows:

(1) Prior to providing point injection therapy services, an East Asian medicine practitioner must obtain the education and training necessary to provide the service. The department shall adopt rules by July 1, 2017, to specify the education and training necessary to provide point injection therapy.

(2) Any East Asian medicine practitioner performing point injection therapy prior to the effective date of this section must be able to demonstrate, upon request of the department of health, successful completion of education and training in point injection therapy.

Passed by the House February 17, 2016.

Passed by the Senate March 2, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.

CHAPTER 98

[House Bill 2457]

ELECTRIC UTILITIES--RECORDED INTEREST IN EASEMENT

AN ACT Relating to recorded interests in easements by an electric utility; and amending RCW 36.35.290.

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

Sec. 1. RCW 36.35.290 and 1961 c 15 s 84.64.460 are each amended to read as follows:

(1) The general property tax assessed on any tract, lot, or parcel of real property includes all easements appurtenant thereto, provided said easements are a matter of public record in the auditor's office of the county in which said real property is situated.

(2)(a) Except as provided in (b) of this subsection, any foreclosure of delinquent taxes on any tract, lot, or parcel of real property subject to such easement or easements, and any tax deed issued pursuant thereto shall be subject to such easement or easements, provided such easement or easements were established of record prior to the year for which the tax was foreclosed.

(b) If an electric utility has a recorded interest in the easement or easements, any foreclosure of delinquent taxes and tax deed issued pursuant thereto are subject to such easement or easements regardless of when such easement or easements were established.

Passed by the House February 10, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 99

[House Bill 2476]

180 DAY SCHOOL YEAR--WAIVERS

AN ACT Relating to waivers from the one hundred eighty-day school year requirement; and amending RCW 28A.305.141.

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

Sec. 1. RCW 28A.305.141 and 2014 c 171 s 1 are each amended to read as follows:

(1) In addition to waivers authorized under RCW 28A.305.140 and 28A.655.180, the state board of education may grant waivers from the requirement for a one hundred eighty-day school year under RCW 28A.150.220 to school districts that propose to operate one or more schools on a flexible calendar for purposes of economy and efficiency as provided in this section. The requirement under RCW 28A.150.220 that school districts offer minimum instructional hours ((~~shall~~)) may not be waived.

(2) A school district seeking a waiver under this section must submit an application that includes:

(a) A proposed calendar for the school day and school year that demonstrates how the instructional hour requirement will be maintained;

(b) An explanation and estimate of the economies and efficiencies to be gained from compressing the instructional hours into fewer than one hundred eighty days;

(c) An explanation of how monetary savings from the proposal will be redirected to support student learning;

(d) A summary of comments received at one or more public hearings on the proposal and how concerns will be addressed;

(e) An explanation of the impact on students who rely upon free and reduced-price school child nutrition services and the impact on the ability of the child nutrition program to operate an economically independent program;

(f) An explanation of the impact on employees in education support positions and the ability to recruit and retain employees in education support positions;

(g) An explanation of the impact on students whose parents work during the missed school day; and

(h) Other information that the state board of education may request to assure that the proposed flexible calendar will not adversely affect student learning.

(3) The state board of education shall adopt criteria to evaluate waiver requests under this section. ((~~No more than five districts may be granted waivers. Waivers~~)) A waiver may be ((~~granted~~)) effective for up to three years and may be renewed for subsequent periods of three or fewer years. After each school year in which a waiver has been granted under this section, the state board of education ((~~shall~~)) must analyze empirical evidence to determine whether the reduction is affecting student learning. If the state board of education determines that student learning is adversely affected, the school district ((~~shall~~)) must discontinue the flexible calendar as soon as possible but not later than the beginning of the next school year after the determination has been made. ((~~All waivers expire August 31, 2017.~~

~~(a) Two of the five waivers granted under this subsection shall be granted to school~~))

(4) The state board of education may grant waivers authorized under this section to five or fewer school districts. Of the five waivers that may be granted, two must be reserved for districts with student populations of less than one hundred fifty students((~~.~~

~~(b) Three of the five waivers granted under this subsection shall be granted to school~~)), and three must be reserved for districts with student populations of between one hundred fifty-one and five hundred students.

(((~~(4) This section expires August 31, 2017.~~)))

Passed by the House February 17, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 100

[Substitute House Bill 2519]

NUISANCE ABATEMENT--COST RECOVERY BY CITIES

AN ACT Relating to nuisance abatement cost recovery for cities; 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) A city or town that exercises its authority under chapter 7.48 RCW, RCW 35.22.280, 35.23.440, or 35.27.410, or other applicable law to abate a nuisance which threatens health or safety must provide prior notice to the property owner that abatement is pending and a special assessment may be levied on the property for the expense of abatement. Such special assessment authority is supplemental to any existing authority of a city or town to levy an assessment or obtain a lien for costs of abatement. The notice must be sent by regular mail.

(2) A city or town that exercises its authority under chapter 7.48 RCW, RCW 35.22.280, 35.23.440, or 35.27.410, or other applicable law to declare a nuisance, abate a nuisance, or impose fines or costs upon persons who create, continue, or maintain a nuisance may levy a special assessment on the land or premises where the nuisance is situated to reimburse the city or town for the expense of abatement. A city or town must, before levying a special assessment, notify the property owner and any identifiable mortgage holder that a special assessment will be levied on the property and provide the estimated amount of the special assessment. The notice must be sent by regular mail.

(3) The special assessment authorized by this section constitutes a lien against the property, and is binding upon successors in title only from the date the lien is recorded in the county where the affected real property is located. Up to two thousand dollars of the recorded lien is of equal rank with state, county, and municipal taxes.

(4) A city or town levying a special assessment under this section may contract with the county treasurer to collect the special assessment in accordance with RCW 84.56.035.

NEW SECTION. **Sec. 2.** A new section is added to chapter 35A.21 RCW to read as follows:

(1) A code city that exercises its authority under chapter 7.48 RCW, RCW 35.22.280, 35.23.440, or 35.27.410, or other applicable law to abate a nuisance which threatens health or safety must provide prior notice to the property owner that abatement is pending and a special assessment may be levied on the property for the expense of abatement. Such special assessment authority is supplemental to any existing authority of a code city to levy an assessment or obtain a lien for costs of abatement. The notice must be sent by regular mail.

(2) A code city that exercises its authority under chapter 7.48 RCW, RCW 35.22.280, 35.23.440, or 35.27.410, or other applicable law to declare a nuisance, abate a nuisance, or impose fines or costs upon persons who create, continue, or maintain a nuisance may levy a special assessment on the land or premises where the nuisance is situated to reimburse the code city for the expense of abatement. A code city must, before levying a special assessment, notify the property owner and any identifiable mortgage holder that a special assessment will be levied on the property and provide the estimated amount of the special assessment. The notice must be sent by regular mail.

(3) The special assessment authorized by this section constitutes a lien against the property, and is binding upon successors in title only from the date

the lien is recorded in the county where the affected real property is located. Up to two thousand dollars of the recorded lien is of equal rank with state, county, and municipal taxes.

(4) A code city levying a special assessment under this section may contract with the county treasurer to collect the special assessment in accordance with RCW 84.56.035.

Passed by the House February 16, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 101

[House Bill 2634]

DAIRY PRODUCTS COMMISSION--RESEARCH AND EDUCATION ON NUTRIENTS

AN ACT Relating to modifying the powers and duties of the Washington dairy products commission to include research and education related to the economic uses of nutrients produced by dairy farms; and amending RCW 15.44.060.

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

Sec. 1. RCW 15.44.060 and 2010 c 8 s 6059 are each amended to read as follows:

The commission shall have the power and duty to:

(1) Elect a chair and such other officers as it deems advisable, and adopt, rescind, and amend rules, regulations, and orders for the exercise of its powers, which shall have the effect of law when not inconsistent with existing laws;

(2) Administer and enforce the provisions of this chapter and perform all acts and exercise all powers reasonably necessary to effectuate the purpose hereof;

(3) Employ and discharge advertising counsel, advertising agents, and such attorneys, agents, and employees as it deems necessary, and prescribe their duties and powers and fix their compensation;

(4) Establish offices, incur expenses, enter into contracts, and create such liabilities as are reasonable and proper for the proper administration of this chapter;

(5) Investigate and prosecute violations of this chapter;

(6) Conduct scientific research designed to improve milk production, quality, transportation, processing, and distribution and to develop and discover uses for products of milk and its derivatives;

(7) Make in its name such contracts and other agreements as are necessary to build demand and promote the sale of dairy products on either a state, national, or foreign basis;

(8) Keep accurate records of all its dealings, which shall be open to public inspection and audit by the regular agencies of the state;

(9) Conduct the necessary research to develop more efficient and equitable methods of marketing dairy products, and enter upon, singly or in participation with others, the promotion and development of state, national, or foreign markets;

(10) Participate in federal and state agency hearings, meetings, and other proceedings relating to the regulation of the production, manufacture, distribution, sale, or use of dairy products, to provide educational meetings and seminars for the dairy industry on such matters, and to expend commission funds for such activities;

(11) Retain the services of private legal counsel to conduct legal actions, on behalf of the commission. The retention of a private attorney is subject to the review of the office of the attorney general;

(12) Work cooperatively with other local, state, and federal agencies, universities, and national organizations for the purposes of this chapter;

(13) Accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies to carry out the purposes of this chapter;

(14) Engage in appropriate fund-raising activities for the purpose of supporting activities of the commission authorized by this chapter;

(15) Expend funds for commodity-related education, training, and leadership programs as the commission deems appropriate; ((~~and~~))

(16) Work cooperatively with nonprofit and other organizations to carry out the purposes of this chapter; and

(17) Conduct research and education related to economic uses of nutrients produced by dairy farms.

Passed by the House February 17, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 102

[House Bill 2637]

HISTORIC CEMETERIES--PRESERVATION AND IMPROVEMENT--CAPITAL GRANTS PROGRAM

AN ACT Relating to preservation and improvement of historic cemeteries; and adding a new section to chapter 27.34 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 27.34 RCW to read as follows:

(1) The Washington state historic cemetery preservation capital grant program is created in the department.

(2) The capital grant program is intended to benefit the public by preserving outstanding examples of the state's historical heritage, enabling historic cemeteries to continue to serve their communities, and honoring the military veterans buried within them.

(3) Subject to appropriation, grants may be awarded each biennium for construction, renovation, or rehabilitation projects that preserve the historic character, features, and materials of the cemetery, or that maintain or improve the functions of the cemetery.

(4) A capital grant award may not exceed fifty thousand dollars, adjusted biennially for inflation. The department may not require applicants to provide matching funds.

(5) Eligible applicants for capital grants include cemetery property owners, nonprofit organizations, and local governments.

(6) Applications for the capital grant program must be submitted to the department in a form and manner prescribed by the department. The applications must include a history of the cemetery which the department shall maintain on file.

(7) The director shall establish a committee to review applications. The committee shall consist of at least five members with expertise or association with historic preservation, cemetery associations, local cemetery boards, and other associations or professional organizations the director deems appropriate. When evaluating and prioritizing projects, the committee shall consider the following criteria:

(a) The relative historical significance of the cemetery;

(b) Whether the proposed project will result in lower costs of maintenance and operations; and

(c) The relative percentage of military burials in the cemetery.

(8) The conditions in this subsection must be met by recipients of funding in order to satisfy the public benefit requirements of the historic cemetery preservation capital grant program.

(a) The committee shall provide the department a prioritized list of projects for funding. The department and grant recipient must execute a contract before work on the grant project begins. The contract must specify public benefit and minimum maintenance requirements.

(b) Grant recipients must proactively maintain their historic cemetery for a minimum of ten years.

(c) Public access to the exterior of properties that are not visible from a public right-of-way must be provided under reasonable terms and circumstances, including the requirement that visits by nonprofit organizations or school groups must be offered at least one day per year. Tribal access must be provided under reasonable terms and circumstances to historic cemeteries in which there are Indian burials.

(9) Projects must be initiated within one year of funding approval and completed within two years, unless an extension is provided in writing by the department.

(10) If a recipient of an historic cemetery preservation capital grant, or subsequent owner of a property that was assisted by a grant, takes any action within ten years of the award with respect to the assisted property such as dismantlement, removal, substantial alteration, or any other action inconsistent with the property's status as a cemetery, the grant must be repaid in full within one year.

Passed by the House March 8, 2016.

Passed by the Senate March 4, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.

CHAPTER 103

[Engrossed Second Substitute House Bill 2667]

PARKS AND RECREATION COMMISSION--LEASES OF PARK LAND--SAINT EDWARD STATE PARK

AN ACT Relating to concerning administrative processes of the state parks and recreation commission that require a majority vote of the commission; amending RCW 79A.05.025; reenacting and amending RCW 79A.05.030; and creating a new section.

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

Sec. 1. RCW 79A.05.025 and 1999 c 249 s 202 are each amended to read as follows:

(1) The commission shall elect one of its members as chair. The commission may be convened at such times as the chair deems necessary, and a majority shall constitute a quorum for the transaction of business.

(2)(a) Except as provided in (b) of this subsection, the lease of park land or property for a period exceeding twenty years requires the unanimous consent of the commission.

(b) With the affirmative vote of at least five members of the commission, the commission may enter into a lease for up to sixty-two years for property at Saint Edward state park. The commission may only enter into a lease under the provisions of this subsection (2)(b) if the commission finds that the department of commerce study required by section 3 of this act fails to identify an economically viable public or nonprofit use for the property that is consistent with the state parks and recreation commission's mission and could proceed on a reasonable timeline. The lease at Saint Edward state park may only include the following:

(i) The main seminary building;

(ii) The pool building;

(iii) The gymnasium;

(iv) The parking lot located in between locations identified in (b)(i), (ii), and (iii) of this subsection;

(v) The parking lot immediately north of the gymnasium; and

(vi) Associated property immediately adjacent to the areas listed in (b)(i) through (v) of this subsection.

Sec. 2. RCW 79A.05.030 and 2005 c 373 s 1 and 2005 c 360 s 5 are each reenacted and amended to read as follows:

The commission shall:

(1) Have the care, charge, control, and supervision of all parks and parkways acquired or set aside by the state for park or parkway purposes.

(2) Adopt policies, and adopt, issue, and enforce rules pertaining to the use, care, and administration of state parks and parkways. The commission shall cause a copy of the rules to be kept posted in a conspicuous place in every state park to which they are applicable, but failure to post or keep any rule posted shall be no defense to any prosecution for the violation thereof.

(3) Permit the use of state parks and parkways by the public under such rules as shall be adopted.

(4) Clear, drain, grade, seed, and otherwise improve or beautify parks and parkways, and erect structures, buildings, fireplaces, and comfort stations and

build and maintain paths, trails, and roadways through or on parks and parkways.

(5) Grant concessions or leases in state parks and parkways((,)) upon such rentals, fees, or percentage of income or profits and for such terms, in no event longer than fifty years, except for a lease associated with land or property described in RCW 79A.05.025(2)(b) which may not exceed sixty-two years, and upon such conditions as shall be approved by the commission((: ~~PROVIDED, That~~)).

(a) Leases exceeding a twenty-year term, or the amendment or modification of these leases, shall require a ((~~unanimous vote of the commission: PROVIDED FURTHER, That~~)) vote consistent with RCW 79A.05.025(2).

(b) If, during the term of any concession or lease, it is the opinion of the commission that it would be in the best interest of the state, the commission may, with the consent of the concessionaire or lessee, alter and amend the terms and conditions of such concession or lease((~~: PROVIDED FURTHER, That~~)).

(c) Television station leases shall be subject to the provisions of RCW 79A.05.085((~~, only: PROVIDED FURTHER, That~~)).

(d) The rates of ((~~such~~)) concessions or leases shall be renegotiated at five-year intervals. No concession shall be granted which will prevent the public from having free access to the scenic attractions of any park or parkway.

(6) Employ such assistance as it deems necessary. Commission expenses relating to its use of volunteer assistance shall be limited to premiums or assessments for the insurance of volunteers by the department of labor and industries, compensation of staff who assist volunteers, materials and equipment used in authorized volunteer projects, training, reimbursement of volunteer travel as provided in RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to volunteer recognition. The commission, at its discretion, may waive commission fees otherwise applicable to volunteers. The commission shall not use volunteers to replace or supplant classified positions. The use of volunteers may not lead to the elimination of any employees or permanent positions in the bargaining unit.

(7) By majority vote of its authorized membership, select and purchase or obtain options upon, lease, or otherwise acquire for and in the name of the state such tracts of land, including shore and tide lands, for park and parkway purposes as it deems proper. If the commission cannot acquire any tract at a price it deems reasonable, it may, by majority vote of its authorized membership, obtain title thereto, or any part thereof, by condemnation proceedings conducted by the attorney general as provided for the condemnation of rights-of-way for state highways. Option agreements executed under authority of this subsection shall be valid only if:

(a) The cost of the option agreement does not exceed one dollar; and

(b) Moneys used for the purchase of the option agreement are from (i) funds appropriated therefor, or (ii) funds appropriated for undesignated land acquisitions, or (iii) funds deemed by the commission to be in excess of the amount necessary for the purposes for which they were appropriated; and

(c) The maximum amount payable for the property upon exercise of the option does not exceed the appraised value of the property.

(8) Cooperate with the United States, or any county or city of this state, in any matter pertaining to the acquisition, development, redevelopment,

renovation, care, control, or supervision of any park or parkway, and enter into contracts in writing to that end. All parks or parkways, to which the state contributed or in whose care, control, or supervision the state participated pursuant to the provisions of this section, shall be governed by the provisions hereof.

(9) Within allowable resources, maintain policies that increase the number of people who have access to free or low-cost recreational opportunities for physical activity, including noncompetitive physical activity.

(10) Adopt rules establishing the requirements for a criminal history record information search for the following: Job applicants, volunteers, and independent contractors who have unsupervised access to children or vulnerable adults, or who will be responsible for collecting or disbursing cash or processing credit/debit card transactions. These background checks will be done through the Washington state patrol criminal identification section and may include a national check from the federal bureau of investigation, which shall be through the submission of fingerprints. A permanent employee of the commission, employed as of July 24, 2005, is exempt from the provisions of this subsection.

NEW SECTION. **Sec. 3.** (1) The department of commerce, in consultation with the state parks and recreation commission, shall conduct a study on the economic feasibility of potential public or nonprofit uses of the seminary building at Saint Edward state park. The study must consider:

(a) Existing cost estimates for building renovation;

(b) Maintenance costs;

(c) Traffic implications of potential uses;

(d) Potential limitations in uses imposed by the United States national park service as a result of land water and conservation funding and land use codes; and

(e) Data developed by the state parks and recreation commission, the city of Kenmore, and independent third parties that have previously studied potential uses of the building.

(2) The study must be submitted to the state parks and recreation commission, the governor's office, and the appropriate fiscal and policy committees of the legislature by July 31, 2016. The department of commerce may contract out for the study.

Passed by the House March 8, 2016.
Passed by the Senate March 10, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 104

[Substitute House Bill 2730]

PRESCRIPTION MONITORING PROGRAM--DATA ACCESS ELIGIBILITY

AN ACT Relating to the prescription monitoring program; and reenacting and amending RCW 70.225.040.

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

Sec. 1. RCW 70.225.040 and 2015 c 259 s 1 and 2015 c 49 s 1 are each reenacted and amended to read as follows:

(1) Prescription information submitted to the department must be confidential, in compliance with chapter 70.02 RCW and federal health care information privacy requirements and not subject to disclosure, except as provided in subsections (3) and (4) of this section.

(2) The department must maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in subsections (3) and (4) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances or legend drugs, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) Health professional licensing, certification, or regulatory agency or entity;

(d) Appropriate law enforcement or prosecutorial officials, including local, state, and federal officials and officials of federally recognized tribes, who are engaged in a bona fide specific investigation involving a designated person;

(e) Authorized practitioners of the department of social and health services and the health care authority regarding medicaid program recipients;

(f) The director or 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;

(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 RCW 70.225.070 pursuant to an agreement between the test site and a person identified in (a) of this subsection to provide assistance in determining which medications are being used by an identified patient who is under the care of that person;

(k) A health care facility or entity for the purpose of providing medical or pharmaceutical care to the patients of the facility or entity, if:

(i) The facility or entity is licensed by the department; and

(ii) The facility or entity is a trading partner with the state's health information exchange; and

(l) A health care provider group of five or more providers for purposes of providing medical or pharmaceutical care to the patients of the provider group if:

(i) All the providers in the provider group are licensed by the department; and

(ii) The provider group is a trading partner with the state's health information exchange.

(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.

Passed by the House February 12, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 105

[House Bill 2741]

FISCAL AGENTS--STATE AND LOCAL GOVERNMENTS

AN ACT Relating to state and local government fiscal agents; amending RCW 43.80.100, 43.80.120, 43.80.125, 43.80.150, 39.46.020, and 39.46.030; adding a new section to chapter 43.80 RCW; and repealing RCW 43.80.110, 43.80.130, 43.80.140, and 43.80.160.

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

Sec. 1. RCW 43.80.100 and 1984 c 7 s 48 are each amended to read as follows:

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

(1) "Bond" has the meaning given in RCW 39.46.020.

(2) "Fiscal agent contract" means the contract entered into by the state finance committee with each designated fiscal agent, as provided in RCW 43.80.120.

(3) "Local government" has the meaning given in RCW 39.46.020.

(4) "Obligation" has the meaning given in RCW 39.46.020.

(5) "State" has the meaning given in RCW 39.46.020.

(6) "State fiscal ((~~agencies~~)) agents" means those banks or trust companies ((~~as~~)) designated as provided in RCW ((~~43.80.110 and~~)) 43.80.120.

(((~~(2) "Subdivision" means governmental agencies, counties, cities and towns, metropolitan municipal corporations, port districts, school districts, townships, public colleges and universities, public community colleges, municipal corporations, quasi municipal corporations, and all other such governmental agencies authorized to borrow and issue tenders of indebtedness therefor. Subdivision does not mean housing authorities and public utility districts.~~

~~(3) "Cremation" means the destruction of canceled bonds or coupons by any approved method, including but not limited to, cremation facilities, incineration facilities, shredding facilities, or dissolving in acid facilities~~)) (7) "Treasurer" has the meaning given in RCW 39.46.020.

Sec. 2. RCW 43.80.120 and 1969 ex.s. c 80 s 3 are each amended to read as follows:

The state finance committee ((~~shall~~)) may designate one or more responsible banks or trust companies as state fiscal ((~~agencies, each having a paid-up capital and surplus of not less than five million dollars~~)) agents. The duties of a state fiscal agent to the state and its local governments may be determined by the state finance committee and may include, without limitation, acting as authenticating agent, transfer agent, registrar, and paying agent for

bonds and other obligations of the state and local governments. The state finance committee shall designate state fiscal ((~~agencies~~)) agents by any method deemed ((~~appropriate to~~)) in the best interests of ((~~this~~)) the state and its ((~~subdivisions.~~

~~The state finance committee shall make duplicate certificates of such designations, cause them to be attested under the seal of the state, and file one copy of each certification in the office of the secretary of state and transmit the other to the bank or trust company designated.~~

~~The banks or trust companies so designated shall continue to be such fiscal agencies for the term of four years from and after the filing of the certificate of its designation, and thereafter until the designation of other banks or trust companies as such fiscal agencies.~~

~~Until successors have been appointed, the banks or trust companies named shall act as the fiscal agencies of the state of Washington in accordance with such terms as shall be agreed upon between the state finance committee and the fiscal agencies so designated. The manner and amount of compensation of the fiscal agents shall be matters specifically left for the state finance committee to determine~~)) local governments. On behalf of the state, the state finance committee shall enter into a contract with each designated state fiscal agent, which contract shall set forth the scope of services to be provided by the state fiscal agent and the terms and conditions, including compensation, for the provision of those services.

If no ((~~such~~)) qualified bank((~~s~~)) or trust ((~~companies are~~)) company is willing to accept ((~~appointment~~)) designation as state fiscal ((~~agencies~~)) agent, or if the state finance committee considers unsatisfactory the terms under which such bank((~~s~~)) or trust ((~~companies are~~)) company is willing so to act, the bonds and ((~~bond interest coupons~~)) other obligations normally payable ((~~at~~)) by the state fiscal ((~~agency,~~)) agent shall thereupon become payable at the state treasury or at the office of the treasurer ((~~or fiscal officer~~)) of the ((~~subdivision concerned~~)) local government, as the case may be.

Sec. 3. RCW 43.80.125 and 1995 c 38 s 10 are each amended to read as follows:

(((~~(1)~~))) The state treasurer or the treasurer of a local government may appoint a state fiscal ((~~agencies designated pursuant to RCW 43.80.110 and 43.80.120 may be appointed by the state treasurer or a local treasurer~~)) agent to act as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the issuance by the state or local government of registered bonds or other obligations pursuant to a system of registration as provided by RCW 39.46.030 ((~~and may establish and maintain on behalf of the state or local government a central depository system for the transfer or pledge of bonds or other obligations. The term "local government" shall be as defined in RCW 39.46.020.~~

~~(2) Whenever in the judgment of the fiscal agencies, certain services as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the establishment and maintenance of a central depository system for the transfer or pledge of registered public obligations, or in connection with the issuance by any public entity of registered public obligations pursuant to a system of registration as provided in chapter 39.46 RCW, can be secured from private sources more economically than by carrying out such duties themselves, they may contract out all or any of such services to~~

~~such private entities as such fiscal agencies deem capable of carrying out such duties in a responsible manner~~)).

Sec. 4. RCW 43.80.150 and 1969 ex.s. c 80 s 6 are each amended to read as follows:

Neither the state treasurer nor the treasurer or other fiscal officer of any ((~~subdivision thereof~~)) local government shall be held responsible for funds ((~~remitted to the~~)) received by a state fiscal ((~~agencies~~)) agent. The state fiscal agent bears the risk of loss for any funds transferred to it under the fiscal agent contract.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.80 RCW to read as follows:

The state finance committee may adopt appropriate rules to carry out the purposes of this chapter, including without limitation rules relating to the responsibilities of state fiscal agents and the responsibilities of the state and local governments with respect to state fiscal agents.

Sec. 6. RCW 39.46.020 and 2011 c 211 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) "Bond" means any agreement, which may or may not be represented by a physical instrument, including notes, warrants, or certificates of indebtedness, that evidences an indebtedness of the state or a local government or a fund thereof, where the state or local government agrees to pay a specified amount of money, with or without interest, at a designated time or times to either registered owners or bearers, including debt issued under chapter 39.50 RCW.

(2) "Host approval" means an approval of an issue of bonds by an applicable elected representative of the state or local government, having jurisdiction, for purposes of section 147(f)(2)(A)(ii) of the internal revenue code, over the area in which a facility is located that is to be financed with bonds issued by an issuer that is not the state or a local government.

(3) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including any public corporation or instrumentality created by such an entity.

(4) "Obligation" means an agreement that evidences an indebtedness of the state or a local government or a fund thereof, other than a bond, and includes, but is not limited to, conditional sales contracts, lease obligations, and promissory notes.

(5) "State" includes the state, agencies of the state, and public corporations and instrumentalities created by the state or agencies of the state.

(6) "Treasurer" means the state treasurer, county treasurer, city treasurer, or ((~~treasurer~~)) other officer responsible for treasury functions of any other ((~~municipal corporation~~)) local government.

Sec. 7. RCW 39.46.030 and 1995 c 38 s 7 are each amended to read as follows:

(1) The state and local governments are authorized to establish a system of registering the ownership of their bonds or other obligations as to principal and interest, or principal only. Registration may include, without limitation: (a) A

book entry system of recording the ownership of a bond or other obligation whether or not a physical instrument is issued; or (b) recording the ownership of a bond or other obligation together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond or other obligation and either the reissuance of the old bond or other obligation or the issuance of a new bond or other obligation to the new owner.

(2) The system of registration shall define the method or methods by which transfer of the registered bonds or other obligations shall be effective, and by which payment of principal and any interest shall be made. The system of registration may permit the issuance of bonds or other obligations in any denomination to represent several registered bonds or other obligations of smaller denominations. The system of registration may also provide for any writing relating to a bond or other obligation that is not issued as a physical instrument, for identifying numbers or other designations, for a sufficient supply of certificates for subsequent transfers, for record and payment dates, for varying denominations, for communications to the owners of bonds or other obligations, for accounting, canceled certificate destruction, registration and release of securing interests, and for such other incidental matters pertaining to the registration of bonds or other obligations as the issuer may deem to be necessary or appropriate.

(3)(a) The state treasurer or ((~~a local~~)) the treasurer of a local government may appoint (i) one or more of the state fiscal ((~~agencies appointed from time to time by the state finance committee in accordance with chapter 43.80 RCW~~)) agents or (ii) other fiscal agents to act with respect to an issue of its bonds or other obligations as authenticating ((~~trustee~~)) agent, transfer agent, registrar, and paying or other agent and specify the rights and duties and means of compensation of any such fiscal ((~~agency~~)) agent so acting. ((~~The state treasurer or local treasurers may also enter into agreements with the fiscal agency or agencies in connection with the establishment and maintenance by such fiscal agency or agencies of a central depository system for the transfer or pledge of bonds or other obligations.~~))

(b) The county treasurer as ex officio treasurer of a special district shall act as fiscal agent for such special district, unless the county treasurer appoints either one or more of the state fiscal ((~~agencies appointed from time to time by the state finance committee in accordance with chapter 43.80 RCW~~)) agents or other fiscal ((~~agents~~)) agent selected ((~~in a manner consistent with RCW 43.80.120~~)) by the county treasurer to act with respect to an issue of ((~~its~~)) the special district's bonds or other obligations as authenticating ((~~trustee~~)) agent, transfer agent, registrar, and paying or other fiscal agent and specify the rights and duties and means of compensation of any such fiscal ((~~agency~~)) agent.

(4) Nothing in this section precludes the issuer, or a trustee appointed by the issuer pursuant to any other provision of law, from itself performing, either alone or jointly with other issuers, fiscal agencies, or trustees, any transfer, registration, authentication, payment, or other function described in this section.

NEW SECTION. **Sec. 8.** The following acts or parts of acts are each repealed:

(1) RCW 43.80.110 (Appointment of fiscal agencies—Location—Places for payment of bonds) and 1983 c 167 s 117, 1982 c 216 s 1, & 1969 ex.s. c 80 s 2;

(2) RCW 43.80.130 (Receipts—Payment procedure—Cremation—Certificate of destruction) and 2009 c 549 s 5157 & 1969 ex.s. c 80 s 4;

(3) RCW 43.80.140 (Notice of establishment of fiscal agencies—Publication—Bonds and coupons paid at fiscal agencies) and 1969 ex.s. c 80 s 5; and

(4) RCW 43.80.160 (Return of funds remitted to redeem bonds and coupons which remain unredeemed) and 1969 ex.s. c 80 s 7.

Passed by the House February 17, 2016.
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CHAPTER 106

[Engrossed Substitute House Bill 2746]

JUVENILE OFFENDERS--MENTAL HEALTH AND CHEMICAL DEPENDENCY TREATMENT--DISPOSITION ALTERNATIVE

AN ACT Relating to mental health and chemical dependency treatment for juvenile offenders; amending RCW 13.40.020, 13.40.0357, and 13.40.165; and repealing RCW 13.40.167.

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

Sec. 1. RCW 13.40.020 and 2014 c 110 s 1 are each amended to read as follows:

For the purposes of this chapter:

(1) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse, or co-occurring mental health and substance abuse disorders, and recommendations for treatment. "Assessment" includes, but is not limited to, drug and alcohol <u>evaluations</u>, psychological and psychiatric evaluations, records review, clinical interview, and administration of a formal test or instrument;

(2) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(3) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(4) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(5) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(e) Residential treatment, where substance abuse, mental health, and/or co-occurring disorders have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, or chemical dependency professional and a funded bed is available. If a child agrees to voluntary placement in a state-funded long-term evaluation and treatment facility, the case must follow the existing placement procedure including consideration of less restrictive treatment options and medical necessity.

(i) A court may order residential treatment after consideration and findings regarding whether:

(A) The referral is necessary to rehabilitate the child;

(B) The referral is necessary to protect the public or the child;

(C) The referral is in the child's best interest;

(D) The child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and

(E) Inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than sixty days after the youth begins inpatient treatment, and every thirty days thereafter, as long as the youth is in inpatient treatment;

(6) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(7) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(8) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(9) "Department" means the department of social and health services;

(10) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(11) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(12) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(13) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(14) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(15) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(16) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(17) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(18) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) $0-$500 fine;

(19) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(20) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(21) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(22) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(23) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(24) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

(25) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(26) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss

of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(27) "Restorative justice" means practices, policies, and programs informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members;

(28) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

(29) "Screening" means a process that is designed to identify a child who is at risk of having mental health, substance abuse, or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment. A screening may be undertaken with or without the administration of a formal instrument;

(30) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

(31) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(32) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(33) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

(34) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

(35) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

(36) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

(37) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

(38) "Youth court" means a diversion unit under the supervision of the juvenile court.

Sec. 2. RCW 13.40.0357 and 2013 c 20 s 2 are each amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
. . . . .		
	Arson and Malicious Mischief	
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+
	Assault and Other Crimes Involving Physical Harm	
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045)	C+
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+
	Burglary and Trespass	
B+	Burglary 1 (9A.52.020)	C+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D

D	Vehicle Prowling 2 (9A.52.100)	E
	Drugs	
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
E	Possession of Legend Drug (69.41.030(2)(b))	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Marihuana <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
	Firearms and Weapons	
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)((~~(iii)~~)) (iv))	C
D+	Possession of Dangerous Weapon (9.41.250)	E

D	Intimidating Another Person by use of Weapon (9.41.270)	E
	Homicide	
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
	Kidnapping	
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
	Obstructing Governmental Operation	
D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
	Public Disturbance	
C+	Criminal Mischief with Weapon (9A.84.010(2)(b))	D+
D+	Criminal Mischief Without Weapon (9A.84.010(2)(a))	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
	Sex Crimes	
A	Rape 1 (9A.44.040)	B+
A-	Rape 2 (9A.44.050)	B+
C+	Rape 3 (9A.44.060)	D+
A-	Rape of a Child 1 (9A.44.073)	B+
B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+

A-	Child Molestation 1 (9A.44.083)	B+
B	Child Molestation 2 (9A.44.086)	C+
C	Failure to Register as a Sex Offender (9A.44.132)	D
	Theft, Robbery, Extortion, and Forgery	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200)	B+
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2))	D
D	Identity Theft 2 (9.35.020(3))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of a Stolen Vehicle (9A.56.068)	C
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
B	Taking Motor Vehicle Without Permission 1 (9A.56.070)	C
C	Taking Motor Vehicle Without Permission 2 (9A.56.075)	D
B	Theft of a Motor Vehicle (9A.56.065)	C
	Motor Vehicle Related Crimes	
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B+	Felony Driving While Under the Influence (46.61.502(6))	B
B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
	Other	

B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1[1] (9A.76.110)	C
C	Escape 2[1] (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)[2]	V

[1]Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 4 weeks confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

[2]If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D((~~, or RCW 13.40.167~~)).

OPTION A

JUVENILE OFFENDER SENTENCING GRID

STANDARD RANGE

A+	180 weeks to age 21 for all category A+ offenses
A	103-129 weeks for all category A offenses

	A-	15-36 weeks Except 30-40 weeks for 15 to 17 year olds	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
CURRENT						
OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
	C	LS	LS	LS	LS	15-36 weeks
	D+	LS	LS	LS	LS	LS
	D	LS	LS	LS	LS	LS
	E	LS	LS	LS	LS	LS
PRIOR ADJUDICATIONS		0	1	2	3	4 or more

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

OPTION B
SUSPENDED DISPOSITION ALTERNATIVE

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender is:

(a) Adjudicated of an A+ offense;

(b) Fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060); or

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential burglary (RCW 9A.52.025), burglary in the second degree (RCW 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a witness (RCW 9A.72.110), violation of the uniform controlled substances act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Ordered to serve a disposition for a firearm violation under RCW 13.40.193; or

(d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

OR

OPTION C
CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

OR

OPTION D
MANIFEST INJUSTICE

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

Sec. 3. RCW 13.40.165 and 2004 c 120 s 5 are each amended to read as follows:

(1) The purpose of this disposition alternative is to ensure that successful treatment options to reduce recidivism are available to eligible youth, pursuant to RCW 70.96A.520. It is also the purpose of the disposition alternative to assure that minors in need of chemical dependency, mental health, and/or co-occurring disorder treatment receive an appropriate continuum of culturally relevant care and treatment, including prevention and early intervention, self-directed care, parent-directed care, and residential treatment. To facilitate the continuum of care and treatment to minors in out-of-home placements, all divisions of the department that provide these services to minors shall jointly plan and deliver these services. It is also the purpose of the disposition alternative to protect the rights of minors against needless hospitalization and deprivations of liberty and to enable treatment decisions to be made in response to clinical needs and in accordance with sound professional judgment. The mental health, substance abuse, and co-occurring disorder treatment providers shall, to the extent possible, offer services that involve minors' parents, guardians, and family.

(2) The court must consider eligibility for the chemical dependency or mental health disposition alternative when a juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, other than a first time B+ offense under chapter 69.50 RCW. The court, on its own motion or the motion of the state or the respondent if the evidence shows that the offender may be chemically dependent ((~~or~~)), substance abusing, or has significant mental health or co-occurring disorders may order an examination by a chemical dependency counselor from a chemical dependency treatment facility approved under chapter 70.96A RCW or a mental health professional as defined in chapter 71.34 RCW to determine if the youth is chemically dependent ((~~or~~)), substance abusing, or suffers from significant mental health or co-occurring disorders. The offender shall pay the cost of any examination ordered under this subsection unless the court finds that the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.

(((~~(2)~~))) (3) The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of drug-alcohol problems ((~~and~~)), mental health diagnoses, previous treatment attempts, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the examiner's information.

(((~~(3)~~))) (4) The examiner shall assess and report regarding the respondent's relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(a) Whether inpatient and/or outpatient treatment is recommended;

(b) Availability of appropriate treatment;

(c) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;

(d) Anticipated length of treatment; and

(e) Recommended crime-related prohibitions.

((~~(4)~~)) (5) The court on its own motion may order, or on a motion by the state or the respondent shall order, a second examination. The evaluator shall be selected by the party making the motion. The requesting party shall pay the cost of any examination ordered under this subsection unless the requesting party is the offender and the court finds that the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.

((~~(5)~~)) (6)(a) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this ((~~chemical dependency~~)) disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section.

(b) If the court determines that this ((~~chemical dependency~~)) disposition alternative is appropriate, then the court shall impose the standard range for the offense, or if the court concludes, and enters reasons for its conclusion, that such disposition would effectuate a manifest injustice, the court shall impose a disposition above the standard range as indicated in option D of RCW 13.40.0357 if the disposition is an increase from the standard range and the confinement of the offender does not exceed a maximum of fifty-two weeks, suspend execution of the disposition, and place the offender on community supervision for up to one year. As a condition of the suspended disposition, the court shall require the offender to undergo available outpatient drug/alcohol, mental health, or co-occurring disorder treatment and/or inpatient mental health or drug/alcohol treatment. ((~~For purposes of this section,~~)) The court shall only order inpatient treatment under this section if a funded bed is available. If the inpatient treatment ((~~may not exceed~~)) is longer than ninety days, the court shall hold a review hearing every thirty days beyond the initial ninety days. The respondent may appear telephonically at these review hearings if in compliance with treatment. As a condition of the suspended disposition, the court may impose conditions of community supervision and other sanctions, including up to thirty days of confinement, one hundred fifty hours of community restitution, and payment of legal financial obligations and restitution.

((~~(6)~~)) (7) The mental health/co-occurring disorder/drug/alcohol treatment provider shall submit monthly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may impose sanctions pursuant to RCW 13.40.200 or revoke the suspension and order execution of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

((~~(7)~~)) (8) 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.

(((~~(8)~~))) (9) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(((~~(9)~~))) (10) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

(((~~(10)~~))) (11) A disposition under this section is not appealable under RCW 13.40.230.

(12) Subject to funds appropriated for this specific purpose, the costs incurred by the juvenile courts for the mental health, chemical dependency, and/or co-occurring disorder evaluations, treatment, and costs of supervision required under this section shall be paid by the department.

NEW SECTION. **Sec. 4.** RCW 13.40.167 (Mental health disposition alternative) and 2005 c 508 s 1 & 2003 c 378 s 4 are each repealed.

Passed by the House February 17, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 107

[House Bill 2808]

INVOLUNTARY TREATMENT--PETITION BY FAMILY--VENUE

AN ACT Relating to amending the process for a person's immediate family member, guardian, or conservator to petition the court for the person's initial detention under the involuntary treatment act; and amending RCW 71.05.201.

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

Sec. 1. RCW 71.05.201 and 2015 c 258 s 2 are each amended to read as follows:

(1) If a designated mental health professional decides not to detain a person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since a designated mental health professional received a request for investigation and the designated mental health professional has not taken action to have the person detained, an immediate family member or guardian or conservator of the person may petition the superior court for the person's initial detention.

(2)(a) The petition must be filed in the county in which the designated mental health professional investigation occurred or was requested to occur and must be submitted on forms developed by the administrative office of the courts for this purpose. The petition must be accompanied by a sworn declaration from the petitioner, and other witnesses if desired, describing why the person should be detained for evaluation and treatment. The description of why the person should be detained may contain, but is not limited to, the information identified in RCW 71.05.212.

(b) The petition must contain:

(i) A description of the relationship between the petitioner and the person; and

(ii) The date on which an investigation was requested from the designated mental health professional.

(3) 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.

Passed by the House March 8, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 108

[House Bill 2838]

DEPARTMENT OF CORRECTIONS--CONTACT PROHIBITIONS--AUTHORITY

AN ACT Relating to clarifying the department of corrections' authority to impose conditions prohibiting contact with other persons, even if the offender is not a sex offender; and reenacting and amending RCW 9.94A.704.

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

Sec. 1. RCW 9.94A.704 and 2015 c 287 s 7 and 2015 c 134 s 8 are each reenacted and 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. This subsection is not intended to reduce the preexisting authority of the department to impose no-contact conditions regardless of the offender's crime and regardless of who is protected by the no-contact condition, where such condition is based on risk to community safety.

(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" 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 an offender on community custody is under the authority of the board, 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 quasi-judicial function.

Passed by the House February 16, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 109

[Engrossed Substitute House Bill 2925]
WILDFIRES--LIVESTOCK PROTECTION

AN ACT Relating to accessing land during a fire suppression response for the purpose of protecting livestock from a wildland fire; amending RCW 76.04.015 and 79.13.060; and adding a new section to chapter 76.04 RCW.

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

Sec. 1. RCW 76.04.015 and 2015 c 182 s 5 are each amended to read as follows:

(1) The department may, at its discretion, appoint trained personnel possessing the necessary qualifications to carry out the duties and supporting functions of the department and may determine their respective salaries.

(2) The department shall have direct charge of and supervision of all matters pertaining to the forest fire service of the state.

(3) The department shall:

(a) Enforce all laws within this chapter;

(b) Be empowered to take charge of and, consistent with section 2 of this act, direct the work of suppressing forest fires;

(c)(i) Investigate the origin and cause of all forest fires to determine whether either a criminal act or negligence by any person, firm, or corporation caused the starting, spreading, or existence of the fire. In conducting investigations, the department shall work cooperatively, to the extent possible, with utilities, property owners, and other interested parties to identify and preserve evidence. Except as provided otherwise in this subsection, the department in conducting investigations is authorized, without court order, to take possession or control of relevant evidence found in plain view and belonging to any person, firm, or corporation. To the extent possible, the department shall notify the person, firm, or corporation of its intent to take possession or control of the evidence. The person, firm, or corporation shall be afforded reasonable opportunity to view the evidence and, before the department takes possession or control of the evidence, also shall be afforded reasonable opportunity to examine, document, and photograph it. If the person, firm, or corporation objects in writing to the department's taking possession or control of the evidence, the department must either return the evidence within seven days after the day on which the department is provided with the written objections or obtain a court order authorizing the continued possession or control.

(ii) Absent a court order authorizing otherwise, the department may not take possession or control of evidence over the objection of the owner of the evidence if the evidence is used by the owner in conducting a business or in providing an electric utility service and the department's taking possession or control of the evidence would substantially and materially interfere with the operation of the business or provision of electric utility service.

(iii) Absent a court order authorizing otherwise, the department may not take possession or control of evidence over the objection of an electric utility when the evidence is not owned by the utility but has caused damage to property owned by the utility. However, this subsection (3)(c)(iii) does not apply if the department has notified the utility of its intent to take possession or control of the evidence and provided the utility with reasonable time to examine, document, and photograph the evidence.

(iv) Only personnel qualified to work on electrical equipment may take possession or control of evidence owned or controlled by an electric utility;

(d) Furnish notices or information to the public calling attention to forest fire dangers and the penalties for violation of this chapter;

(e) Be familiar with all timbered and cut-over areas of the state;

(f) Maximize the effective utilization of local fire suppression assets consistent with RCW 76.04.181; and

(g) Regulate and control the official actions of its employees, the wardens, and the rangers.

(4) The department may:

(a) Authorize all needful and proper expenditures for forest protection;

(b) Adopt rules consistent with this section for the prevention, control, and suppression of forest fires as it considers necessary including but not limited to: Fire equipment and materials; use of personnel; and fire prevention standards and operating conditions including a provision for reducing these conditions where justified by local factors such as location and weather;

(c) Remove at will the commission of any ranger or suspend the authority of any warden;

(d) Inquire into:

(i) The extent, kind, value, and condition of all timberlands within the state;

(ii) The extent to which timberlands are being destroyed by fire and the damage thereon;

(e) Provide fire detection, prevention, presuppression, or suppression services on nonforested public lands managed by the department or another state agency, but only to the extent that providing these services does not interfere with or detract from the obligations set forth in subsection (3) of this section. If the department provides fire detection, prevention, presuppression, or suppression services on nonforested public lands managed by another state agency, the department must be fully reimbursed for the work through a cooperative agreement as provided for in RCW 76.04.135(1).

(5) Any rules adopted under this section for the suppression of forest fires must include a mechanism by which a local fire mobilization radio frequency, consistent with RCW 43.43.963, is identified and made available during the initial response to any forest fire that crosses jurisdictional lines so that all responders have access to communications during the response. Different initial response frequencies may be identified and used as appropriate in different geographic response areas. If the fire radio communication needs escalate beyond the capability of the identified local radio frequency, the use of other available designated interoperability radio frequencies may be used.

(6) When the department considers it to be in the best interest of the state, it may cooperate with any agency of another state, the United States or any agency thereof, the Dominion of Canada or any agency or province thereof, and any county, town, corporation, individual, or Indian tribe within the state of Washington in forest firefighting and patrol.

NEW SECTION. **Sec. 2.** A new section is added to chapter 76.04 RCW to read as follows:

(1)(a) The department must make every reasonable effort to accommodate a livestock owner's request to retrieve or care for animals in his or her charge that are at risk due to a wildfire.

(b) The department may only prohibit livestock owners, or the owner's employees or agents, from retrieving or caring for livestock that are lawfully present on the public lands during any fire suppression response if doing so is reasonably necessary to prevent interference with a direct, active fire response.

(2) The department must incorporate the implementation of this section into any prefire season training or coordination conducted in local communities that contain active grazing areas.

(3)(a) The owner of livestock lawfully present on public lands assumes full liability for any damages incurred to himself or herself, and any employees or agents in his or her charge, if public lands are accessed to retrieve or care for livestock during the time of a fire suppression response by the department affecting the public lands in question.

(b) No civil liability may be imposed by any court on the state, the department, or another political subdivision of the state for any direct or indirect adverse impacts, including injury or death, resulting from:

(i) The department's reasonable efforts under this section to accommodate a livestock owner, or the owner's employees or agents, to retrieve or care for animals in his or her charge that are at risk due to a wildfire; or

(ii) A livestock owner, or the owner's employees or agents, accessing public lands to retrieve or care for livestock during the time of a fire suppression response by the department affecting the public lands in question.

Sec. 3. RCW 79.13.060 and 2007 c 504 s 2 are each amended to read as follows:

(1) State lands may be leased not to exceed ten years with the following exceptions:

(a) The lands may be leased for agricultural purposes not to exceed twenty-five years, except:

(i) Leases that authorize tree fruit or grape production may be for up to fifty-five years;

(ii) Share crop leases may not exceed ten years;

(b) The lands may be leased for commercial, industrial, business, or recreational purposes not to exceed fifty-five years;

(c) The lands may be leased for public school, college, or university purposes not to exceed seventy-five years;

(d) The lands may be leased for residential purposes not to exceed ninety-nine years; and

(e) The lands and development rights on state lands held for the benefit of the common schools may be leased to public agencies, as defined in RCW 79.17.200, not to exceed ninety-nine years. The leases may include provisions for renewal of lease terms.

(2) No lessee of state lands may remain in possession of the land after the termination or expiration of the lease without the written consent of the department.

(a) The department may authorize a lease extension for a specific period beyond the term of the lease for cropping improvements for the purpose of crop rotation. These improvements shall be deemed authorized improvements under RCW 79.13.030.

(b) Upon expiration of the lease term, the department may allow the lessee to continue to hold the land for a period not exceeding one year upon such rent, terms, and conditions as the department may prescribe, if the leased land is not otherwise utilized.

(c) Upon expiration of the one-year lease extension, the department may issue a temporary permit to the lessee upon terms and conditions it prescribes if

the department has not yet determined the disposition of the land for other purposes.

(d) The temporary permit shall not extend beyond a five-year period.

(3) If during the term of the lease of any state lands for agricultural, grazing, commercial, residential, business, or recreational purposes, in the opinion of the department it is in the best interest of the state so to do, the department may, on the application of the lessee and in agreement with the lessee, alter and amend the terms and conditions of the lease. The sum total of the original lease term and any extension thereof shall not exceed the limits provided in this section.

(4) The department must include in the text of any grazing leases language that explains the right of access, and associated assumption of liability, created in section 2 of this act.

Passed by the House February 17, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 110

[Engrossed Substitute House Bill 2928]

FOREST RESILIENCY BURNING--PILOT PROJECT--AIR QUALITY

AN ACT Relating to ensuring that restrictions on outdoor burning for air quality reasons do not impede measures necessary to ensure forest resiliency to catastrophic fires; 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 department of natural resources shall conduct a forest resiliency burning pilot project. The goal of the pilot project is to monitor and evaluate the benefits of forest resiliency burning and the impacts on ambient air quality. The department of natural resources is responsible for establishing the processes and procedures necessary to administer the pilot project, including the review and approval of qualifying forest resiliency burning proposals. The department of natural resources may consider forest resiliency burning proposals that include treatments to reduce fuel loads prior to burning, including the thinning of forest stands and grazing to clear brush.

(2)(a) The department of natural resources must, as the primary focus of the pilot project, arrange with interested third parties to perform forest resiliency burning on land prone to forest or wildland fires in coordination with the following forest health collaboratives as recognized by the United States forest service:

(i) North Central Washington forest health collaborative;

(ii) Northeast Washington forestry collaborative; and

(iii) Tapash sustainable forest collaborative.

(b) The department of natural resources must also coordinate with at least one organized group of public agencies and interested stakeholders whose purpose is to protect, conserve, and expand the safe and responsible use of prescribed fire on the Washington landscape.

(3)(a) The department of natural resources must, as part of the pilot project, approve single day or multiple day forest resiliency burns if the burning is

unlikely to significantly contribute to an exceedance of air quality standards established by chapter 70.94 RCW. Once approved, forest resiliency burns spanning multiple days may only be revoked or postponed midway through the duration of the approved burn if necessary for the safety of adjacent property or upon a determination by the department of natural resources or the department of ecology that the burn has significantly contributed to an exceedance of air quality standards under chapter 70.94 RCW.

(b) The department of natural resources must approve burns at least twenty-four hours prior to ignition of the fire.

(4) Forest resiliency burning, when conducted under the pilot project authorized by this section, is not subject to the outdoor burning restrictions in RCW 70.94.6512(2) and 70.94.6514.

(5) The implementation of the pilot project authorized in this section is not:

(a) Intended to require the department of natural resources to update the smoke management plan defined in RCW 70.94.6536. However, information obtained through the pilot project's implementation may be used to inform any future updates to the smoke management plan; and

(b) Subject to the provisions of chapter 43.21C RCW.

(6) Forest resiliency burning, and the implementation of the pilot project authorized in this section, must not be conducted at a scale that would require a revision to the state implementation plan under the federal clean air act.

(7) The department of natural resources shall submit a report to the legislature, consistent with RCW 43.01.036, by December 1, 2018. The report must include information and analyses regarding the following elements:

(a) The amount of forest resiliency burns proposed, approved, and conducted;

(b) The quantity and severity of air quality exceedances by pollutant type;

(c) A comparative analysis between the predicted smoke conditions and the actual smoke conditions observed on location by qualified meteorological personnel or trained prescribed burning professionals during the forest resiliency burn; and

(d) Recommendations relating to continuing or expanding forest resiliency burning and creating forest resiliency burning as a new type of outdoor burning permitted by the department of natural resources.

(8) The report to the legislature required by this section may include recommendations for the updating of the smoke management plan defined in RCW 70.94.6536.

(9) For the purposes of this section, "forest resiliency burning" means silvicultural burning carried out under the supervision of qualified silvicultural, ecological, or fire management professionals and used to improve fire dependent ecosystems, mitigate wildfire potential, decrease forest susceptibility to forest insect or disease as defined in RCW 76.06.020, or otherwise enhance forest resiliency to fire.

(10) This section expires July 1, 2019.

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 March 10, 2016.

Passed by the Senate March 9, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 111

[Second Engrossed Senate Bill 5251]

PUBLIC WATER SYSTEMS--FINANCIAL ASSISTANCE ACTIVITIES

AN ACT Relating to transferring public water system financial assistance activities from the public works board and the department of commerce to the department of health; and amending RCW 70.119A.170.

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

Sec. 1. RCW 70.119A.170 and 2001 c 141 s 4 are each amended to read as follows:

(1) A drinking water assistance account ((~~is~~))and an administrative subaccount are created in the state treasury. ((~~Such subaccounts as are necessary to carry out the purposes of this chapter are permitted to be established within the account. Therefore, the drinking water assistance administrative account and the drinking water assistance repayment account are created in the state treasury.~~)) The purpose of the account is to allow the state to use any federal funds that become available to states from congress to fund a state revolving ((~~loan~~)) fund loan program as part of the reauthorization of the federal safe drinking water act. ((~~Expenditures from the account may only be made by the secretary, the public works board, or the department of community, trade, and economic development, after appropriation.~~))Moneys in the account may be spent only after appropriation. Until June 30, 2018, expenditures from the account may only be made by the secretary of health, the public works board, or the department of commerce. Beginning July 1, 2018, expenditures from the account may only be made by the secretary. Moneys in the account may only be used, consistent with federal law, to assist local governments and public water systems to provide safe and reliable drinking water through a program administered through the department ((~~of health, the public works board, and the department of community, trade, and economic development~~)) and for other activities authorized under federal law. Money may be placed in the account from the proceeds of bonds when authorized by the legislature, transfers from other state funds or accounts, federal capitalization grants or other financial assistance, all repayments of moneys borrowed from the account, all interest payments made by borrowers from the account or otherwise earned on the account, or any other lawful source. All interest earned on moneys deposited in the account, including repayments, shall remain in the account and may be used for any eligible purpose. ((~~Moneys in the account may only be used to assist local governments and water systems to provide safe and reliable drinking water, for other services and assistance authorized by federal law to be funded from these federal funds, and to administer the program.~~))

(2) The department ((~~and the public works board~~)) shall ((~~establish and~~)) maintain a program to use the moneys in the drinking water assistance account as provided by the federal government under the safe drinking water act. ((~~The department and the public works board, in consultation with purveyors, local governments, local health jurisdictions, financial institutions, commercial~~

~~construction interests, other state agencies, and other affected and interested parties, shall by January 1, 1999, adopt final joint rules and requirements for the provision of financial assistance to public water systems as authorized under federal law. Prior to the effective date of the final rules, the department and the public works board may establish and utilize guidelines for the sole purpose of ensuring the timely procurement of financial assistance from the federal government under the safe drinking water act, but such guidelines shall be converted to rules by January 1, 1999.~~)) The department ((~~and the public works board~~)) shall make every reasonable effort to ((~~ensure the state's receipt and disbursement of~~))provide cost-effective, timely services and disburse federal funds to eligible public water systems as quickly as possible after the federal government has made them available. ((~~By December 15, 1997, the department and the public works board shall provide a report to the appropriate committees of the legislature reflecting the input from the affected interests and parties on the status of the program. The report shall include significant issues and concerns, the status of rule making and guidelines, and a plan for the adoption of final rules.~~

~~(3) If the department, public works board, or any other department, agency, board, or commission of state government participates in providing service under this section, the administering entity shall endeavor to provide cost-effective and timely services. Mechanisms to provide cost-effective and timely services include: (a) Adopting federal guidelines by reference into administrative rules; (b) using existing management mechanisms rather than creating new administrative structures; (c) investigating the use of service contracts, either with other governmental entities or with nongovernmental service providers; (d) the use of joint or combined financial assistance applications; and (e) any other method or practice designed to streamline and expedite the delivery of services and financial assistance.~~

~~(4)~~))(3) The department shall have the authority to establish assistance priorities and carry out oversight and related activities((~~, other than financial administration,~~)) with respect to assistance provided with federal funds. By December 31, 2016, the department, the public works board, and the department of ((~~community, trade, and economic development~~))commerce shall ((~~jointly~~)) develop((~~, with the assistance of water purveyors and other affected and interested parties,~~)) a memorandum of understanding ((~~setting forth responsibilities and duties for each of the parties. The memorandum of understanding at a minimum, shall include~~))to transfer financial administration of the program as authorized under subsection (1) of this section.

(4) The department shall:

(a) ((~~Responsibility for developing~~))Develop guidelines for providing assistance to public water systems and related oversight prioritization and oversight responsibilities including requirements for prioritization of loans or other financial assistance to public water systems;

(b) ((~~Department submittal of preapplication information to the public works board for review and comment;~~

~~(c) Department submittal of~~))Establish a prioritized list of projects ((~~to the public works board for determination of~~)). Priority considerations must include, but are not limited to:

(i) Financial capability of the applicant to repay the loan; ((~~and~~))

(ii) The applicant's readiness to proceed((~~, or the~~))and the ability of the applicant to promptly commence and complete the project;

(((~~(d) A process for determining~~))(iii) Consistency with existing water resource planning and management, including coordinated water supply plans, regional water resource plans, and comprehensive plans under the growth management act, chapter 36.70A RCW;

(((~~(e) A determination of:~~

~~(i)~~))(iv) Least-cost solutions, including ((~~consolidation and~~)) restructuring of ((~~small~~))public water systems, where appropriate((~~, into more economical units~~));

(((~~(ii)~~)))(v) The provision of regional ((~~facilities~~))benefits that affect more than one public water system;

(((~~(iii)~~)))(vi) Projects and activities that facilitate compliance with the federal safe drinking water act; ((~~and~~

~~(iv)~~))(vii) Projects and activities that are intended to achieve the public health objectives of federal and state drinking water laws regulations, and rules; and

(((~~(f)~~)))(viii) Implementation of water ((~~conservation~~))use efficiency and other demand management measures consistent with state ((~~guidelines~~))laws and rules for water utilities;

(((~~(g)~~)))(c) Provide assistance for the necessary planning and engineering to ((~~assure~~))ensure that consistency, coordination, and proper professional review are incorporated into projects or activities proposed for funding;

(((~~(h)~~)))(d) Establish minimum standards for water system capacity, including operational, technical, managerial, and financial ((~~viability~~))capability, and as part of water system planning requirements;

(((~~(i)~~)))(e) Oversee the testing and evaluation of the water quality of ((~~the state's~~)) public water systems to ((~~assure~~))ensure that priority for financial assistance is provided to systems and areas with threats to public health from contaminated supplies and reduce in appropriate cases the substantial increases in costs and rates that customers of small systems would otherwise incur under the monitoring and testing requirements of the federal safe drinking water act;

(((~~(j) Coordination~~))(f) Coordinate, to the maximum extent possible, with other state programs that provide financial assistance to public water systems and state programs that address existing or potential water quality or drinking water contamination problems;

(((~~(k) Definitions of "affordability" and "disadvantaged community" that are consistent with these and similar terms in use by other state or federal assistance programs;~~

~~(l) Criteria for the financial assistance program for public water systems, which shall include, but are not limited to:~~

~~(i) Determining projects addressing the most serious risk to human health;~~

~~(ii) Determining the capacity of the system to effectively manage its resources, including meeting state financial viability criteria; and~~

~~(iii) Determining the relative benefit to the community served; and~~

~~(m) Ensure that each agency fulfills~~))(g) Submit a prioritized list of projects to the public works board for coordination with other state and federal infrastructure assistance programs, and to the appropriate committees of the legislature by February 1st of each year; and

(h) Fulfill the audit, accounting, and reporting requirements under federal law for ((~~its portion of~~)) the administration of ((~~this~~))the program.

(5) The department ((~~and the public works board shall begin the process to disburse funds no later than October 1, 1997, and~~)) shall adopt such rules as are necessary under chapter 34.05 RCW to administer the program ((~~by January 1, 1999~~)).

Passed by the Senate February 11, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 112

[Engrossed Substitute Senate Bill 5435]
OPTIONAL SALARY DEFERRAL PROGRAMS

AN ACT Relating to optional salary deferral programs; amending RCW 41.50.770 and 41.50.780; reenacting and amending RCW 43.84.092; adding a new section to chapter 41.50 RCW; and creating a new section.

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

Sec. 1. RCW 41.50.770 and 2014 c 172 s 1 are each amended to read as follows:

(1) "Employee" as used in this section and RCW 41.50.780 includes all full-time, part-time, and career seasonal employees of the state, a county, a municipality, or other political subdivision of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of the government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and of the superior and district courts; and members of the state legislature or of the legislative authority of any county, city, or town.

(2) The state, through the department, and any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body is authorized to contract with an employee to defer a portion of that employee's income, which deferred portion shall in no event exceed the amount allowable under 26 U.S.C. Sec. 401(a) or 457, and deposit or invest such deferred portion in a credit union, savings and loan association, bank, or mutual savings bank or purchase life insurance, shares of an investment company, individual securities, or fixed and/or variable annuity contracts from any insurance company or any investment company licensed to contract business in this state.

(3) Beginning no later than January 1, 2017, all persons newly employed by the state on a full-time basis who are eligible to participate in a deferred compensation plan under 26 U.S.C. Sec. 457 shall be enrolled in the state deferred compensation plan unless the employee affirmatively elects to waive participation in the plan. Persons who participate in the plan without having selected a deferral amount or investment option shall contribute three percent of taxable compensation to their plan account which shall be invested in a default option selected by the state investment board in consultation with the director. This subsection does not apply to higher education undergraduate and graduate

student employees and shall be administered consistent with the requirements of the federal internal revenue code.

(4) Beginning no later than January 1, 2017, any county, municipality, or other political subdivision offering the state deferred compensation plan authorized under this section, may choose to administer the plan with an opt-out feature for new employees as described in subsection (3) of this section.

(5) Employees participating in the state deferred compensation plan under 26 U.S.C. Sec. 457 or money-purchase retirement savings plan under 26 U.S.C. Sec. 401(a) administered by the department shall self-direct the investment of the deferred portion of their income through the selection of investment options as set forth in subsection (((~~(4)~~))) (6) of this section.

(((~~(4)~~))) (6) The department can provide such plans as it deems are in the interests of state employees. In addition to the types of investments described in this section, the state investment board, with respect to the state deferred compensation plan under 26 U.S.C. Sec. 457 or money-purchase retirement savings plan under 26 U.S.C. Sec. 401(a), shall invest the deferred portion of an employee's income, without limitation as to amount, in accordance with RCW 43.84.150, 43.33A.140, and 41.50.780, and pursuant to investment policy established by the state investment board for the state deferred compensation plan((~~s~~)) under 26 U.S.C. Sec. 457 or money-purchase retirement savings plan under 26 U.S.C. Sec. 401(a). The state investment board, after consultation with the director regarding any recommendations made pursuant to RCW 41.50.088(2), shall provide a set of options for participants to choose from for investment of the deferred portion of their income. Any income deferred under ((~~such a plan~~)) these plans shall continue to be included as regular compensation, for the purpose of computing the state or local retirement and pension benefits earned by any employee.

(((~~(5)~~))) (7) Coverage of an employee under ((~~a deferred compensation plan~~)) optional salary deferral programs under this section shall not render such employee ineligible for simultaneous membership and participation in any pension system for public employees.

Sec. 2. RCW 41.50.780 and 2010 1st sp.s. c 7 s 30 are each amended to read as follows:

(1) The deferred compensation principal account is hereby created in the state treasury.

(2) The amount of compensation deferred under 26 U.S.C. Sec. 457 by employees under agreements entered into under the authority contained in RCW 41.50.770 shall be paid into the deferred compensation principal account and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by the department. The deferred compensation principal account shall be used to carry out the purposes of RCW 41.50.770. All eligible state employees shall be given the opportunity to participate in agreements entered into by the department under RCW 41.50.770. State agencies shall cooperate with the department in providing employees with the opportunity to participate.

(3) Any county, municipality, or other subdivision of the state may elect to participate in any agreements entered into by the department under RCW 41.50.770, including the making of payments therefrom to the employees participating in a deferred compensation plan upon their separation from state or

other qualifying service. Accordingly, the deferred compensation principal account shall be considered to be a public pension or retirement fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of the moneys therein.

(4) All moneys in the state deferred compensation principal account and the state deferred compensation administrative account, all property and rights purchased therewith, and all income attributable thereto, shall be held in trust by the state investment board, as set forth under RCW 43.33A.030, for the exclusive benefit of the state deferred compensation plan's participants and their beneficiaries. Neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, has any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments under the plan. These payments and right thereto are nonassignable and nontransferable. Unpaid accumulated deferrals are not subject to attachment, garnishment, or execution and are not transferable by operation of law in event of bankruptcy or insolvency, except to the extent otherwise required by law.

(5) The state investment board has the full power to invest moneys in the state deferred compensation principal account and the state deferred compensation administrative account in accordance with RCW 43.84.150, 43.33A.140, and 41.50.770, and cumulative investment directions received pursuant to RCW 41.50.770. All investment and operating costs of the state investment board associated with the investment of the deferred compensation plan assets shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, one hundred percent of all earnings from these investments shall accrue directly to the deferred compensation principal account.

(6)(a) No state board or commission, agency, or any officer, employee, or member thereof is liable for any loss or deficiency resulting from participant investments selected pursuant to RCW 41.50.770((~~(3)~~)) (5).

(b) Neither the department, nor the director or any employee, nor the state investment board, nor any officer, employee, or member thereof is liable for any loss or deficiency resulting from reasonable efforts to implement investment directions pursuant to RCW 41.50.770((~~(3)~~)) (5).

(7) The deferred compensation administrative account is hereby created in the state treasury. All expenses of the department pertaining to the deferred compensation plan including staffing and administrative expenses shall be paid out of the deferred compensation administrative account. Any excess balances credited to this account over administrative expenses disbursed from this account shall be transferred to the deferred compensation principal account at such time and in such amounts as may be determined by the department with the approval of the office of financial management. Any deficiency in the deferred compensation administrative account caused by an excess of administrative expenses disbursed from this account shall be transferred to this account from the deferred compensation principal account.

(8)(a)(i) The department shall keep or cause to be kept full and adequate accounts and records of the assets of each individual participant, obligations, transactions, and affairs of any deferred compensation plans created under RCW 41.50.770 and this section. The department shall account for and report on the investment of state deferred compensation plan assets or may enter into an agreement with the state investment board for such accounting and reporting.

(ii) The department's duties related to individual participant accounts include conducting the activities of trade instruction, settlement activities, and direction of cash movement and related wire transfers with the custodian bank and outside investment firms.

(iii) The department has sole responsibility for contracting with any recordkeepers for individual participant accounts and shall manage the performance of recordkeepers under those contracts.

(b)(i) The department's duties under (a)(ii) of this subsection do not limit the authority of the state investment board to conduct its responsibilities for asset management and balancing of the deferred compensation funds.

(ii) The state investment board has sole responsibility for contracting with outside investment firms to provide investment management for the deferred compensation funds and shall manage the performance of investment managers under those contracts.

(c) The state treasurer shall designate and define the terms of engagement for the custodial banks.

(9) The department may adopt rules necessary to carry out its responsibilities under RCW 41.50.770 and this section.

NEW SECTION. **Sec. 3.** A new section is added to chapter 41.50 RCW to read as follows:

(1) The money-purchase retirement savings principal account is hereby created in the state treasury.

(2) The amount of compensation deferred under 26 U.S.C. Sec. 401(a) by employees under agreements entered into under the authority contained in RCW 41.50.770 shall be paid into the money-purchase retirement savings principal account and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by the department. The money-purchase retirement savings principal account shall be used to carry out the purposes of RCW 41.50.770. All eligible state employees shall be given the opportunity to participate in agreements entered into by the department under RCW 41.50.770. State agencies shall cooperate with the department in providing employees with the opportunity to participate.

(3) Any county, municipality, or other subdivision of the state may elect to participate in any agreements entered into by the department under RCW 41.50.770, including the making of payments therefrom to the employees participating in a 26 U.S.C. Sec. 401(a) plan upon their separation from state or other qualifying service. Accordingly, the money-purchase retirement savings principal account shall be considered to be a public pension or retirement fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of the moneys therein.

(4) All moneys in the state money-purchase retirement savings principal account and the state money-purchase retirement savings administrative account, all property and rights purchased therewith, and all income attributable thereto, shall be held in trust by the state investment board, as set forth under RCW 43.33A.030, for the exclusive benefit of the state 26 U.S.C. Sec. 401(a) plan's participants and their beneficiaries. Neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, has any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments under the plan. These payments and right thereto are nonassignable

and nontransferable. Unpaid accumulated deferrals are not subject to attachment, garnishment, or execution and are not transferable by operation of law in event of bankruptcy or insolvency, except to the extent otherwise required by law.

(5) The state investment board has the full power to invest moneys in the state money-purchase retirement savings principal account and the state money-purchase retirement savings administrative account in accordance with RCW 43.84.150, 43.33A.140, and 41.50.770, and cumulative investment directions received pursuant to RCW 41.50.770. All investment and operating costs of the state investment board associated with the investment of the money-purchase retirement savings plan assets shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, one hundred percent of all earnings from these investments shall accrue directly to the money-purchase retirement savings principal account.

(6)(a) No state board or commission, agency, or any officer, employee, or member thereof is liable for any loss or deficiency resulting from participant investments selected pursuant to RCW 41.50.770(5).

(b) Neither the department, nor the director or any employee, nor the state investment board, nor any officer, employee, or member thereof is liable for any loss or deficiency resulting from reasonable efforts to implement investment directions pursuant to RCW 41.50.770(5).

(7) The money-purchase retirement savings administrative account is hereby created in the state treasury. All expenses of the department pertaining to the money-purchase retirement savings plan including staffing and administrative expenses shall be paid out of the money-purchase retirement savings administrative account. Any excess balances credited to this account over administrative expenses disbursed from this account shall be transferred to the money-purchase retirement savings principal account at such time and in such amounts as may be determined by the department with the approval of the office of financial management. Any deficiency in the money-purchase retirement savings administrative account caused by an excess of administrative expenses disbursed from this account shall be transferred to this account from the money-purchase retirement savings principal account.

(8)(a)(i) The department shall keep or cause to be kept full and adequate accounts and records of the assets of each individual participant, obligations, transactions, and affairs of any deferred compensation plans created under RCW 41.50.770 and this section. The department shall account for and report on the investment of state money-purchase retirement savings plan assets or may enter into an agreement with the state investment board for such accounting and reporting.

(ii) The department's duties related to individual participant accounts include conducting the activities of trade instruction, settlement activities, and direction of cash movement and related wire transfers with the custodian bank and outside investment firms.

(iii) The department has sole responsibility for contracting with any recordkeepers for individual participant accounts and shall manage the performance of recordkeepers under those contracts.

(b)(i) The department's duties under (a)(ii) of this subsection do not limit the authority of the state investment board to conduct its responsibilities for asset management and balancing of the money-purchase retirement savings funds.

(ii) The state investment board has sole responsibility for contracting with outside investment firms to provide investment management for the money-purchase retirement savings funds and shall manage the performance of investment managers under those contracts.

(c) The state treasurer shall designate and define the terms of engagement for the custodial banks.

(9) The department may adopt rules necessary to carry out its responsibilities under RCW 41.50.770 and this section.

Sec. 4. RCW 43.84.092 and 2015 3rd sp.s. c 44 s 107 and 2015 3rd sp.s. c 12 s 3 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial

preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account,

the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2016, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 8, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 113

[Senate Bill 5605]

DOMESTIC VIOLENCE ASSAULT--16 AND 17 YEAR OLD CHILDREN--ARREST

AN ACT Relating to arrest of sixteen and seventeen year olds for domestic violence assault; and reenacting and amending RCW 10.31.100.

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

Sec. 1. RCW 10.31.100 and 2014 c 202 s 307, 2014 c 100 s 2, and 2014 c 5 s 1 are each reenacted and amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of an officer, except as provided in subsections (1) through ((~~(11)~~)) (12) of this section.

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

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

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

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

(c) The person is ((~~sixteen~~)) eighteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to

consider: (((~~(i)~~))) (A) The intent to protect victims of domestic violence under RCW 10.99.010; (((~~(ii)~~))) (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (((~~(iii)~~))) (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) A police officer shall, at the request of a parent or guardian, arrest the sixteen or seventeen year old child of that parent or guardian if the officer has probable cause to believe that the child has assaulted a family or household member as defined in RCW 10.99.020 in the preceding four hours. Nothing in this subsection removes a police officer's existing authority provided in this section to make an arrest.

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

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

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

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

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

(e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;

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

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

(((~~(4)~~))) (5) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(((~~(5)~~))) (6)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

(((~~(6)~~))) (7) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(((~~(7)~~))) (8) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an

officer the authority to take appropriate action under the laws of the state of Washington.

((~~(8)~~)) (9) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

((~~(9)~~)) (10) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

((~~(10)~~)) (11) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

((~~(11)~~)) (12) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

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

((~~(12)~~)) (13) A law enforcement officer having probable cause to believe that a person has committed a violation under RCW 77.15.160(4) may issue a citation for an infraction to the person in connection with the violation.

((~~(13)~~)) (14) A law enforcement officer having probable cause to believe that a person has committed a criminal violation under RCW 77.15.809 or 77.15.811 may arrest the person in connection with the violation.

((~~(14)~~)) (15) Except as specifically provided in subsections (2), ((~~(3)~~)) (4), ((~~(4)~~)) (5), and ((~~(7)~~)) (8) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

((~~(15)~~)) (16) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or ((~~(9)~~)) (10) of this section if the police officer acts in good faith and without malice.

((~~(16)~~)) (17) A police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years.

(18) A juvenile detention facility shall book into detention any person under age eighteen brought to that detention facility pursuant to an arrest for assaulting a family or household member as defined in RCW 10.99.020.

Passed by the Senate March 7, 2016.

Passed by the House March 4, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.

CHAPTER 114

[Substitute Senate Bill 6120]

VESSEL REGISTRATION--EXEMPTION

AN ACT Relating to providing a registration exemption for certain vessels; amending RCW 88.02.570 and 88.02.570; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 88.02.570 and 2015 3rd sp.s. c 6 s 804 are each amended to read as follows:

Vessel registration is required under this chapter except for the following:

(1) A military vessel owned by the United States government;

(2) A public vessel owned by the United States government, unless the vessel is a type used for recreation;

(3) A vessel clearly identified as being:

(a) Owned by a state, county, or city; and

(b) Used primarily for governmental purposes;

(4) A vessel either (a) registered or numbered under the laws of a country other than the United States or (b) having a valid United States customs service cruising license issued pursuant to 19 C.F.R. Sec. 4.94. Either vessel is exempt from registration only for the first sixty days of use on Washington state waters. On or before the sixty-first day of use on Washington state waters, any vessel in the state under this subsection must obtain a vessel visitor permit as required under RCW 88.02.610;

(5) A vessel that is currently registered or numbered under the laws of the state of principal operation or that has been issued a valid number under federal law. However, either vessel must be registered in Washington state if the state of principal operation changes to Washington state by the sixty-first day after the vessel arrives in Washington state;

(6)(a) A vessel owned by a nonresident if:

(i) The vessel is located upon the waters of this state exclusively for repairs, alteration, or reconstruction, or any testing related to these services;

(ii) An employee of the facility providing these services is on board the vessel during any testing; and

(iii) The nonresident files an affidavit with the department of revenue by the sixty-first day verifying that the vessel is located upon the waters of this state for these services.

(b) The nonresident must continue to file an affidavit every sixty days thereafter, as long as the vessel is located upon the waters of this state exclusively for repairs, alteration, reconstruction, or testing;

(7) A vessel equipped with propulsion machinery of less than ten horsepower that:

(a) Is owned by the owner of a vessel for which a valid vessel number has been issued;

(b) Displays the number of that numbered vessel followed by the suffix "1" in the manner prescribed by the department; and

(c) Is used as a tender for direct transportation between the numbered vessel and the shore and for no other purpose;

(8) A vessel under sixteen feet in overall length that has no propulsion machinery of any type or that is not used on waters subject to the jurisdiction of

the United States or on the high seas beyond the territorial seas for vessels owned in the United States and are powered by propulsion machinery of ten or less horsepower;

(9) A vessel with no propulsion machinery of any type for which the primary mode of propulsion is human power;

(10) A vessel primarily engaged in commerce that has or is required to have a valid marine document as a vessel of the United States. A commercial vessel that the department of revenue determines has the external appearance of a vessel that would otherwise be required to register under this chapter, must display decals issued annually by the department of revenue that indicate the vessel's exempt status;

(11) A vessel primarily engaged in commerce that is owned by a resident of a country other than the United States;

(12) A vessel owned by a nonresident person brought into the state for use or enjoyment while temporarily within the state for not more than six months in any continuous twelve-month period that (a) is currently registered or numbered under the laws of the state of principal use or (b) has been issued a valid number under federal law. This type of vessel is exempt from registration only for the first sixty days of use on Washington state waters. On or before the sixty-first day of use on Washington state waters, any vessel under this subsection must obtain a nonresident vessel permit as required under RCW 88.02.620;

(13) A vessel used in this state by a nonresident individual possessing a valid use permit issued under RCW 82.08.700 or 82.12.700; ((~~and~~))

(14) A vessel held for sale by any licensed dealer; and

(15) A vessel with propulsion machinery that draws two hundred fifty watts or less and propels the vessel no faster than ten miles per hour and is not used on waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels owned in the United States.

Sec. 2. RCW 88.02.570 and 2010 c 161 s 1018 are each amended to read as follows:

Vessel registration is required under this chapter except for the following:

(1) A military vessel owned by the United States government;

(2) A public vessel owned by the United States government, unless the vessel is a type used for recreation;

(3) A vessel clearly identified as being:

(a) Owned by a state, county, or city; and

(b) Used primarily for governmental purposes;

(4) A vessel either (a) registered or numbered under the laws of a country other than the United States or (b) having a valid United States customs service cruising license issued pursuant to 19 C.F.R. Sec. 4.94. Either vessel is exempt from registration only for the first sixty days of use on Washington state waters. On or before the sixty-first day of use on Washington state waters, any vessel in the state under this subsection must obtain a vessel visitor permit as required under RCW 88.02.610;

(5) A vessel that is currently registered or numbered under the laws of the state of principal operation or that has been issued a valid number under federal law. However, either vessel must be registered in Washington state if the state of principal operation changes to Washington state by the sixty-first day after the vessel arrives in Washington state;

(6) A vessel owned by a nonresident if:

(a) The vessel is located upon the waters of this state exclusively for repairs, alteration, or reconstruction, or any testing related to these services;

(b) An employee of the facility providing these services is on board the vessel during any testing; and

(c) The nonresident files an affidavit with the department of revenue by the sixty-first day verifying that the vessel is located upon the waters of this state for these services.

The nonresident shall continue to file an affidavit every sixty days thereafter, as long as the vessel is located upon the waters of this state exclusively for repairs, alteration, reconstruction, or testing;

(7) A vessel equipped with propulsion machinery of less than ten horsepower that:

(a) Is owned by the owner of a vessel for which a valid vessel number has been issued;

(b) Displays the number of that numbered vessel followed by the suffix "1" in the manner prescribed by the department; and

(c) Is used as a tender for direct transportation between the numbered vessel and the shore and for no other purpose;

(8) A vessel under sixteen feet in overall length that has no propulsion machinery of any type or that is not used on waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels owned in the United States and are powered by propulsion machinery of ten or less horsepower;

(9) A vessel with no propulsion machinery of any type for which the primary mode of propulsion is human power;

(10) A vessel primarily engaged in commerce that has or is required to have a valid marine document as a vessel of the United States. A commercial vessel that the department of revenue determines has the external appearance of a vessel that would otherwise be required to register under this chapter, must display decals issued annually by the department of revenue that indicate the vessel's exempt status;

(11) A vessel primarily engaged in commerce that is owned by a resident of a country other than the United States;

(12) A vessel owned by a nonresident natural person brought into the state for use or enjoyment while temporarily within the state for not more than six months in any continuous twelve-month period that (a) is currently registered or numbered under the laws of the state of principal use or (b) has been issued a valid number under federal law. This type of vessel is exempt from registration only for the first sixty days of use on Washington state waters. On or before the sixty-first day of use on Washington state waters, any vessel under this subsection must obtain a nonresident vessel permit as required under RCW 88.02.620;

(13) A vessel used in this state by a nonresident individual possessing a valid use permit issued under RCW 82.08.700 or 82.12.700; ((~~and~~))

(14) A vessel held for sale by any licensed dealer; and

(15) A vessel with propulsion machinery that draws two hundred fifty watts or less and propels the vessel no faster than ten miles per hour and is not used on

waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels owned in the United States.

NEW SECTION. **Sec. 3.** Section 1 of this act expires July 1, 2019.

NEW SECTION. **Sec. 4.** Section 2 of this act takes effect July 1, 2019.

Passed by the Senate March 7, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 115

[Senate Bill 6263]

RETIREMENT SYSTEM BENEFITS--DEATH OR DISABILITY--EMERGENCY MANAGEMENT SERVICES WORK

AN ACT Relating to benefits for certain retirement system members who die or become disabled in the course of providing emergency management services; amending RCW 41.26.510 and 41.26.470; and reenacting and amending RCW 41.26.520.

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

Sec. 1. RCW 41.26.510 and 2015 c 78 s 1 are each amended to read as follows:

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) Except as provided in subsection (4) of this section, if a member who is killed in the course of employment or a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse, domestic partner, or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430; if a surviving spouse or domestic partner who is

receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse or domestic partner, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse or domestic partner eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse or domestic partner and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies on or after July 25, 1993, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse, domestic partner, or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) The retirement allowance of a member:

(a) Who is killed in the course of employment, as determined by the director of the department of labor and industries, ((~~or the retirement allowance of a member~~))

(b) Who has left the employ of an employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, or

(c) Who has left the employ of an employer due to service in the national guard, military reserves, federal emergency management agency, or national disaster medical system of the United States department of health and human services and dies while performing service in response to a disaster, major emergency, special event, federal exercise, or official training on or after March 22, 2014,

is not subject to an actuarial reduction for early retirement as provided in RCW 41.26.430 or an actuarial reduction to reflect a joint and one hundred percent survivor option under RCW 41.26.460. The member's retirement allowance is computed under RCW 41.26.420, except that the member shall be entitled to a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance

equal to two percent of such member's average final salary for each year of service beyond five.

(5) The retirement allowance paid to the spouse or domestic partner and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(5), shall include reimbursement for any payments of premium rates to the Washington state health care authority pursuant to RCW 41.05.080.

(6) In addition to the benefits provided in subsection (4) of this section, if the surviving spouse or domestic partner of a member who is killed in the course of employment is not eligible to receive industrial insurance payments pursuant to RCW 51.32.050 due to remarriage, the surviving spouse or domestic partner shall receive an amount equal to the benefit they would receive pursuant to RCW 51.32.050 but for the remarriage. This subsection applies to surviving spouses and domestic partners whose benefits pursuant to RCW 51.32.050 were suspended or terminated due to remarriage prior to July 24, 2015. The monthly payments to any surviving spouse or domestic partner who received a lump sum payment pursuant to RCW 51.32.050 shall be actuarially reduced to reflect the amount of the lump sum payment.

Sec. 2. RCW 41.26.520 and 2009 c 523 s 8 and 2009 c 205 s 8 are each reenacted and amended to read as follows:

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.26.410 through 41.26.550.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The basic salary reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (7) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes the employer, member, and state contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner.

(4) A law enforcement member may be authorized by an employer to work part time and to go on a part-time leave of absence. During a part-time leave of absence a member is prohibited from any other employment with their employer. A member is eligible to receive credit for any portion of service credit not earned during a month of part-time leave of absence if the member makes the employer, member, and state contributions, plus interest, as determined by the department for the period of the authorized leave within five years of resumption of full-time

service or prior to retirement whichever comes sooner. Any service credit purchased for a part-time leave of absence is included in the two-year maximum provided in subsection (3) of this section.

(5) If a member fails to meet the time limitations of subsection (3) or (4) of this section, the member may receive a maximum of two years of service credit during a member's working career for those periods when a member is on unpaid leave of absence authorized by an employer. This may be done by paying the amount required under RCW 41.50.165(2) prior to retirement.

(6) For the purpose of subsection (3) or (4) of this section the contribution shall not include the contribution for the unfunded supplemental present value as required by RCW 41.45.060, 41.45.061, and 41.45.067. The contributions required shall be based on the average of the member's basic salary at both the time the authorized leave of absence was granted and the time the member resumed employment.

(7) A member who leaves the employ of an employer to enter the uniformed services of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the uniformed services of the United States, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the uniformed services; and

(ii) The member makes the employee contributions required under RCW 41.45.060, 41.45.061, and 41.45.067 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(iii) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2); or

(iv) Prior to retirement the member provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. Any member who made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005 may, prior to retirement and on a form provided by the department, request a refund of the funds standing to his or her credit for up to five years of such service, and this amount shall be paid to him or her. Members with one or more periods of interruptive military service credit during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(b) Upon receipt of member contributions under (a)(ii), (d)(iii), or (e)(iii) of this subsection, or adequate proof under (a)(iv), (d)(iv), or (e)(iv) of this subsection, the department shall establish the member's service credit and shall bill the employer and the state for their respective contributions required under RCW 41.26.450 for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii), (d)(iii), or (e)(iii) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the

compensation reported for the member in the year prior to when the member went on military leave.

(d) The surviving spouse, domestic partner, or eligible child or children of a member who left the employ of an employer to enter the uniformed services of the United States and died while serving in the uniformed services may, on behalf of the deceased member, apply for retirement system service credit under this subsection up to the date of the member's death in the uniformed services. The department shall establish the deceased member's service credit if the surviving spouse or eligible child or children:

(i) Provides to the director proof of the member's death while serving in the uniformed services;

(ii) Provides to the director proof of the member's honorable service in the uniformed services prior to the date of death; and

(iii) Pays the employee contributions required under chapter 41.45 RCW within five years of the date of death or prior to the distribution of any benefit, whichever comes first; or

(iv) Prior to the distribution of any benefit, provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. If the deceased member made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005, the surviving spouse or eligible child or children may, prior to the distribution of any benefit and on a form provided by the department, request a refund of the funds standing to the deceased member's credit for up to five years of such service, and this amount shall be paid to the surviving spouse or children. Members with one or more periods of interruptive military service during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(e) A member who leaves the employ of an employer to enter the uniformed services of the United States and becomes totally incapacitated for continued employment by an employer while serving in the uniformed services is entitled to retirement system service credit under this subsection up to the date of discharge from the uniformed services if:

(i) The member obtains a determination from the director that he or she is totally incapacitated for continued employment due to conditions or events that occurred while serving in the uniformed services;

(ii) The member provides to the director proof of honorable discharge from the uniformed services; and

(iii) The member pays the employee contributions required under chapter 41.45 RCW within five years of the director's determination of total disability or prior to the distribution of any benefit, whichever comes first; or

(iv) Prior to retirement the member provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. Any member who made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005 may, prior to retirement and on a form provided by the department, request a refund of the funds standing to his or her credit for up to five years of such service, and this amount shall be paid to him or her. Members with one or more periods of interruptive military service credit during a period of war may

receive no more than five years of free retirement system service credit under this subsection.

(f) The surviving spouse, domestic partner, or eligible child or children of a member who left the employ of an employer to enter the uniformed services of the United States, federal emergency management agency, or national disaster medical system of the United States department of health and human services and died while performing service in response to a disaster, major emergency, special event, federal exercise, or official training on or after March 22, 2014, may, on behalf of the deceased member, apply for retirement system service credit under this subsection up to the date of the member's death in such service. The department shall establish the deceased member's service credit if the surviving spouse or eligible child or children provides to the director proof of the member's death while in such service.

(g) A member who leaves the employ of an employer to enter the uniformed services of the United States, federal emergency management agency, or national disaster medical system of the United States department of health and human services and becomes totally incapacitated for continued employment by an employer while providing such service is entitled to retirement system service credit under this subsection up to the date of separation from such service if the member obtains a determination from the director that he or she is totally incapacitated for continued employment due to conditions or events that occurred while performing such service.

(8) A member receiving benefits under Title 51 RCW who is not receiving benefits under this chapter shall be deemed to be on unpaid, authorized leave of absence.

Sec. 3. RCW 41.26.470 and 2013 c 287 s 2 are each amended to read as follows:

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-three, except under subsection (7) of this section.

(2) Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing. Both the notice

and the hearing shall comply with the requirements of chapter 34.05 RCW, the administrative procedure act.

(3) Those members subject to this chapter who became disabled in the line of duty on or after July 23, 1989, and who receive benefits under RCW 41.04.500 through 41.04.530 or similar benefits under RCW 41.04.535 shall receive or continue to receive service credit subject to the following:

(a) No member may receive more than one month's service credit in a calendar month.

(b) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(c) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(d) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(e) State contributions shall be as provided in RCW 41.45.060 and 41.45.067.

(f) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred.

(g) The service and compensation credit under this section shall be granted for a period not to exceed six consecutive months.

(h) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

(4)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no such designated person or persons still living at the time of the recipient's death, then to the surviving spouse or domestic partner, or, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse or domestic partner, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions.

(5) Should the disability retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into service or retirement for service, he or she shall be paid the excess, if any, of the accumulated contributions at the time of retirement over all payments made on his or her behalf under this chapter.

(6) A member who becomes disabled in the line of duty, and who ceases to be an employee of an employer except by service or disability retirement, may request a refund of one hundred fifty percent of the member's accumulated contributions. Any accumulated contributions attributable to restorations made

under RCW 41.50.165(2) shall be refunded at one hundred percent. A person in receipt of this benefit is a retiree.

(7) A member who becomes disabled in the line of duty shall be entitled to receive a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five.

(8) A member who became disabled in the line of duty before January 1, 2001, and is receiving an allowance under RCW 41.26.430 or subsection (1) of this section shall be entitled to receive a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five, and shall have the allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-three. An additional benefit shall not result in a total monthly benefit greater than that provided in subsection (1) of this section.

(9) A member who is totally disabled in the line of duty is entitled to receive a retirement allowance equal to seventy percent of the member's final average salary. The allowance provided under this subsection shall be offset by:

(a) Temporary disability wage-replacement benefits or permanent total disability benefits provided to the member under Title 51 RCW; and

(b) Federal social security disability benefits, if any;

so that such an allowance does not result in the member receiving combined benefits that exceed one hundred percent of the member's final average salary. However, the offsets shall not in any case reduce the allowance provided under this subsection below the member's accrued retirement allowance.

A member is considered totally disabled if he or she is unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or that has lasted or is expected to last at least twelve months. Substantial gainful activity is defined as average earnings in excess of eight hundred sixty dollars a month in 2006 adjusted annually as determined by the director based on federal social security disability standards. The department may require a person in receipt of an allowance under this subsection to provide any financial records that are necessary to determine continued eligibility for such an allowance. A person in receipt of an allowance under this subsection whose earnings exceed the threshold for substantial gainful activity shall have their benefit converted to a line-of-duty disability retirement allowance as provided in subsection (7) of this section.

Any person in receipt of an allowance under the provisions of this section is subject to comprehensive medical examinations as may be required by the department under subsection (2) of this section in order to determine continued eligibility for such an allowance.

(10)(a) In addition to the retirement allowance provided in subsection (9) of this section, the retirement allowance of a member who is totally disabled in the line of duty shall include reimbursement for any payments made by the member after June 10, 2010, for premiums on employer-provided medical insurance, insurance authorized by the consolidated omnibus budget reconciliation act of 1985 (COBRA), medicare part A (hospital insurance), and medicare part B

(medical insurance). A member who is entitled to medicare must enroll and maintain enrollment in both medicare part A and medicare part B in order to remain eligible for the reimbursement provided in this subsection. The legislature reserves the right to amend or repeal the benefits provided in this subsection in the future and no member or beneficiary has a contractual right to receive any distribution not granted prior to that time.

(b) The retirement allowance of a member who is not eligible for reimbursement provided in (a) of this subsection shall include reimbursement for any payments made after June 30, 2013, for premiums on other medical insurance. However, in no instance shall the reimbursement exceed the amount reimbursed for premiums authorized by the consolidated omnibus budget reconciliation act of 1985 (COBRA).

(11) A member who has left the employ of an employer due to service in the national guard, military reserves, federal emergency management agency, or national disaster medical system of the United States department of health and human services and who becomes totally incapacitated for continued employment by an employer as determined by the director while performing service in response to a disaster, major emergency, special event, federal exercise, or official training on or after March 22, 2014, shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 except such allowance is not subject to an actuarial reduction for early retirement as provided in RCW 41.26.430. The member's retirement allowance is computed under RCW 41.26.420, except that the member shall be entitled to a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five.

Passed by the Senate February 17, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 116

[Substitute Senate Bill 6449]

ENHANCED RAFFLES--CERTAIN ORGANIZATIONS--EXPIRATION DATE

AN ACT Relating to enhanced raffles; amending RCW 9.46.0323; and providing an expiration date.

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

Sec. 1. RCW 9.46.0323 and 2013 c 310 s 1 are each amended to read as follows:

(1) A bona fide charitable or nonprofit organization, as defined in RCW 9.46.0209, whose primary purpose is serving individuals with intellectual disabilities may conduct enhanced raffles if licensed by the commission.

(2) The commission has the authority to approve two enhanced raffles per calendar year for western Washington and two enhanced raffles per calendar year for eastern Washington. Whether the enhanced raffle occurs in western

Washington or eastern Washington will be determined by the location where the grand prize winning ticket is to be drawn as stated on the organization's application to the commission. An enhanced raffle is considered approved when voted on by the commission.

(3) The commission has the authority to approve enhanced raffles under the following conditions:

(a) The value of the grand prize must not exceed five million dollars.

(b) Sales may be made in person, by mail, by fax, or by telephone only. Raffle ticket order forms may be printed from the bona fide charitable or nonprofit organization's web site. Obtaining the form in this manner does not constitute a sale.

(c) Tickets purchased as part of a multiple ticket package may be purchased at a discount.

(d) Multiple smaller prizes are authorized during the course of an enhanced raffle for a grand prize including, but not limited to, early bird, refer a friend, and multiple ticket drawings.

(e) A purchase contract is not necessary for smaller noncash prizes, but the bona fide charitable or nonprofit organization must be able to demonstrate that such a prize is available and sufficient funds are held in reserve in the event that the winner chooses a noncash prize.

(f) All enhanced raffles and associated smaller raffles must be independently audited, as defined by the commission during rule making. The audit results must be reported to the commission.

(g) Call centers, when licensed by the commission, are authorized. The bona fide charitable or nonprofit organization may contract with a call center vendor to receive enhanced raffle ticket sales. The vendor may not solicit sales. The vendor may be located outside the state, but the bona fide charitable or nonprofit organization must have a contractual relationship with the vendor stating that the vendor must comply with all applicable Washington state laws and rules.

(h) The bona fide charitable or nonprofit organization must be the primary recipient of the funds raised.

(i) Sales data may be transmitted electronically from the vendor to the bona fide charitable or nonprofit organization. Credit cards, issued by a state regulated or federally regulated financial institution, may be used for payment to participate in enhanced raffles.

(j) Receipts including ticket confirmation numbers may be sent to ticket purchasers either by mail or by email.

(k) In the event the bona fide charitable or nonprofit organization determines ticket sales are insufficient to qualify for a complete enhanced raffle to move forward, the enhanced raffle winner must receive fifty percent of the net proceeds in excess of expenses as the grand prize. The enhanced raffle winner will receive a choice between an annuity value equal to fifty percent of the net proceeds in excess of expenses paid by annuity over twenty years, or a one-time cash payment of seventy percent of the annuity value.

(l) A bona fide charitable or nonprofit organization is authorized to hire a consultant licensed by the commission to run an enhanced raffle; in addition, the bona fide charitable or nonprofit organization must have a dedicated employee who is responsible for oversight of enhanced raffle operations. The bona fide charitable or nonprofit organization is ultimately responsible for ensuring that an

enhanced raffle is conducted in accordance with all applicable state laws and rules.

(4) The commission has the authority to set fees for bona fide charitable or nonprofit organizations, call center vendors, and consultants conducting enhanced raffles authorized under this section.

(5) The commission has the authority to adopt rules governing the licensing and operation of enhanced raffles.

(6) Except as specifically authorized in this section, enhanced raffles must be held in accordance with all other requirements of this chapter, other applicable laws, and rules of the commission.

(7) For the purposes of this section:

(a) "Enhanced raffle" means a game in which tickets bearing an individual number are sold for not more than two hundred fifty dollars each and in which a grand prize and smaller prizes are awarded on the basis of drawings from the tickets by the person or persons conducting the game. An enhanced raffle may include additional related entries and drawings, such as early bird, refer a friend, and multiple ticket drawings when the bona fide charitable or nonprofit organization establishes the eligibility standards for such entries and drawings before any enhanced raffle tickets are sold. No drawing may occur by using a random number generator or similar means.

(b) "Early bird drawing" means a separate drawing for a separate prize held prior to the grand prize drawing. All tickets entered into the early bird drawing, including all early bird winning tickets, are entered into subsequent early bird drawings, and also entered into the drawing for the grand prize.

(c) "Refer a friend drawing" means a completely separate drawing, using tickets distinct from those for the enhanced raffle, for a separate prize held at the conclusion of the enhanced raffle for all enhanced raffle ticket purchasers, known as the referring friend, who refer other persons to the enhanced raffle when the other person ultimately purchases an enhanced raffle ticket. The referring friend will receive one ticket for each friend referred specifically for the refer a friend drawing. In addition, each friend referred could also become a referring friend and receive his or her own additional ticket for the refer a friend drawing.

(d) "Multiple ticket drawing" means a completely separate drawing, using tickets distinct from those for the enhanced raffle, for a separate prize held at the conclusion of the enhanced raffle for all enhanced raffle ticket purchasers who purchase a specified number of enhanced raffle tickets. For example, a multiple ticket drawing could include persons who purchase three or more enhanced raffle tickets in the same order, using the same payment information, with tickets in the same person's name. For each eligible enhanced raffle ticket purchased, the purchaser also receives a ticket for the multiple ticket drawing prize.

(e) "Western Washington" includes those counties west of the Cascade mountains, including Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom.

(f) "Eastern Washington" includes those counties east of the Cascade mountains that are not listed in (e) of this subsection.

(8) By December 2016, the commission must report back to the appropriate committees of the legislature on enhanced raffles. The report must include

results of the raffles, revenue generated by the raffles, and identify any state or federal regulatory actions taken in relation to enhanced raffles in Washington. The report must also make recommendations, if any, for policy changes to the enhanced raffle authority.

(9) This section expires June 30, ((~~2017~~)) 2022.

Passed by the Senate February 10, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 117

[Engrossed Substitute Senate Bill 6513]

RESERVATIONS OF WATER--WATER RESOURCE INVENTORY AREAS 18 AND 45--WATER RIGHTS APPLICATIONS

AN ACT Relating to reservations of water in water resource inventory areas 18 and 45; adding a new section to chapter 90.54 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 90.54 RCW to read as follows:

(1) The department shall act on all water rights applications that rely on the reservations of water established in WAC 173-518-080 or 173-545-090, as those provisions existed on the effective date of this section. The legislature declares that the reservations of water established in WAC 173-518-080 and 173-545-090, as those provisions existed on the effective date of this section, are consistent with legislative intent and are specifically authorized to be maintained and implemented by the department.

(2) This section does not affect the department's authority to lawfully adopt, amend, or repeal any rule, including WAC 173-518-080 or 173-545-090.

(3) This section may not be construed to prejudice any reservation of water not referenced in this section.

NEW SECTION. **Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate February 16, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 118

[Substitute Senate Bill 6558]

HOSPITAL PHARMACY LICENSES--INDIVIDUAL PRACTITIONER OFFICES AND MULTIPRACTITIONER CLINICS

AN ACT Relating to allowing a hospital pharmacy license to include individual practitioner offices and multipracitioner clinics owned and operated by a hospital and ensuring such offices and clinics are inspected according to the level of service provided; amending RCW 18.64.043; and adding a new section to chapter 18.64 RCW.

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:

The intent of this legislation is to make clear the legislature's directive to the commission to allow hospital pharmacy licenses to include individual practitioner offices and multipractitioner clinics owned, operated, or under common control with a hospital and that such offices and clinics are regulated, inspected, and investigated according to the level of service provided. While legislation providing for such a system was enacted in 2015, it has yet to be implemented. The legislature wishes to specify a clear timeline for implementation.

Sec. 2. RCW 18.64.043 and 2015 c 234 s 4 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~~)) commission 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.

(2)(a) 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~~)), or under common control with 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 definition of "hospital" under RCW 70.41.020 to exclude "clinics, or physician's offices where patients are not regularly kept as bed patients for twenty-four hours or more," does not limit the ability of a hospital to include individual practitioner's offices or multipractitioner clinics owned, operated, or under common control with a hospital on the pharmacy application or renewal or otherwise prevent the implementation of this act. A hospital that elects to include one or more offices or clinics under this subsection on its hospital pharmacy application shall describe the type of services relevant to the practice of pharmacy provided at each such office or clinic as requested by the commission. Any updates to the application, renewal, or related forms that are necessary to accomplish the provision of this licensure option must be made no later than ninety days after the effective date of this section. Nothing in this section limits the ability of a hospital to transfer drugs to another location consistent with federal laws and RCW 70.41.490, regardless of whether or not an election has been made with

respect to adding the receiving location to the hospital's pharmacy license under this section.

(b) This chapter must be interpreted in a manner that supports regulatory, inspection, and investigation standards that are reasonable and appropriate based on the level of risk and the type of services provided in a pharmacy, including pharmacy services provided in a hospital and pharmacy services provided in an individual practitioner office or multipractitioner clinic owned, operated, or under common control with a hospital regardless of the office or clinic's physical address. The commission shall provide clear and specific information regarding the standards to which particular pharmacy services will be held, as appropriate, based on the type of pharmacy service provided at a particular location.

(c) The secretary may adopt rules to establish an additional reasonable fee for any such office or clinic.

((~~(2)~~)) (3) It shall be the duty of the owner to immediately notify the ((~~department~~)) commission of any change of location ((~~or~~)), ownership, or licensure and to keep the license of location or the renewal thereof properly exhibited in said pharmacy.

((~~(3)~~)) (4) 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)~~)) (5) 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.

(6) If the commission determines that rules are necessary for the immediate implementation of the inspection standards described in this section, it must adopt rules under the emergency rule-making process in RCW 34.05.350, with such emergency rules effective not later than ninety days after the effective date of this section. The commission shall then begin the process to adopt any necessary permanent rules in accordance with chapter 34.05 RCW. The commission shall ensure that during the transition to the permanent rules adopted under this section, an emergency rule remains in effect without a break between the original emergency rule and any subsequent emergency rules that may be necessary. The commission shall ensure that during the transition to permanent rules there is no interruption in provision of the licensure option described under this section.

Passed by the Senate March 7, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 119

[Engrossed Substitute Senate Bill 6605]

SOLID WASTE MANAGEMENT--SPREAD OF DISEASE, PLANT PATHOGENS, AND PESTS--PREVENTION

AN ACT Relating to ensuring that solid waste management requirements prevent the spread of disease, plant pathogens, and pests; amending RCW 70.95.060, 70.95.165, 70.95.180, 70.95.200, 70.95.300, 70.95.205, and 70.95.315; and adding a new section to chapter 70.95 RCW.

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

Sec. 1. RCW 70.95.060 and 1999 c 116 s 1 are each amended to read as follows:

(1) The department shall adopt rules establishing minimum functional standards for solid waste handling, consistent with the standards specified in this section. The department may classify areas of the state with respect to population density, climate, geology, status under a quarantine as defined in RCW 17.24.007, and other relevant factors bearing on solid waste disposal standards.

(2) In addition to the minimum functional standards adopted by the department under subsection (1) of this section, each landfill facility whose area at its design capacity will exceed one hundred acres and whose horizontal height at design capacity will average one hundred feet or more above existing site elevations shall comply with the standards of this subsection. This subsection applies only to wholly new solid waste landfill facilities, no part or unit of which has had construction commence before April 27, 1999.

(a) No landfill specified in this subsection may be located:

(i) So that the active area is closer than five miles to any national park or a public or private nonprofit zoological park displaying native animals in their native habitats; or

(ii) Over a sole source aquifer designated under the federal safe drinking water act, if such designation was effective before January 1, 1999.

(b) Each landfill specified in this subsection (2) shall be constructed with an impermeable berm around the entire perimeter of the active area of the landfill of such height, thickness, and design as will be sufficient to contain all material disposed in the event of a complete failure of the structural integrity of the landfill.

Sec. 2. RCW 70.95.165 and 2015 1st sp.s. c 4 s 49 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, agriculture, 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 RCW 43.83.350, 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.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70.95 RCW to read as follows:

Upon receipt by the department of a preliminary draft plan as provided in RCW 70.95.094, the department shall immediately provide a copy of the preliminary draft plan to the department of agriculture. Within forty-five days after receiving the preliminary draft plan, the department of agriculture shall review the preliminary draft plan for compliance with chapter 17.24 RCW and the rules adopted under that chapter. The department of agriculture shall advise the local government submitting the preliminary draft plan and the department of the result of the review.

Sec. 4. RCW 70.95.180 and 1997 c 213 s 3 are each amended to read as follows:

(1) Applications for permits to operate a new or modified solid waste handling facility shall be on forms prescribed by the department and shall contain a description of the proposed facilities and operations at the site, plans and specifications for any new or additional facilities to be constructed, and such other information as the jurisdictional health department may deem necessary in order to determine whether the site and solid waste disposal facilities located thereon will comply with local regulations and state ((~~regulations~~)) rules.

(2) Upon receipt of an application for a permit to establish or modify a solid waste handling facility, the jurisdictional health department shall refer one copy of the application to the department which shall report its findings to the jurisdictional health department. When the application is for a permit to establish or modify a solid waste handling facility located in an area that is not under a quarantine, as defined in RCW 17.24.007, and when the facility will receive material for composting from an area under a quarantine, the jurisdictional health department shall also provide a copy of the application to the department of agriculture. The department of agriculture shall review the application to determine whether it contains information demonstrating that the proposed facility presents a risk of spreading disease, plant pathogens, or pests to areas that are not under a quarantine. For the purposes of this subsection, "composting" means the biological degradation and transformation of organic solid waste under controlled conditions designed to promote aerobic decomposition.

(3) The jurisdictional health department shall investigate every application as may be necessary to determine whether a proposed or modified site and facilities meet all solid waste, air, and other applicable laws and regulations, and conforms with the approved comprehensive solid waste handling plan, and complies with all zoning requirements.

(4) When the jurisdictional health department finds that the permit should be issued, it shall issue such permit. Every application shall be approved or disapproved within ninety days after its receipt by the jurisdictional health department.

(5) The jurisdictional board of health may establish reasonable fees for permits and renewal of permits. All permit fees collected by the health department shall be deposited in the treasury and to the account from which the health department's operating expenses are paid.

Sec. 5. RCW 70.95.200 and 1969 ex.s. c 134 s 20 are each amended to read as follows:

Any permit for a solid waste disposal site issued as provided herein shall be subject to suspension at any time the jurisdictional health department determines that the site or the solid waste disposal facilities located on the site are being operated in violation of this chapter, ((~~or~~)) the regulations of the department, the rules of the department of agriculture, or local laws and regulations.

Sec. 6. RCW 70.95.300 and 1998 c 156 s 2 are each amended to read as follows:

(1) The department may by rule exempt a solid waste from the permitting requirements of this chapter for one or more beneficial uses. In adopting such rules, the department shall specify both the solid waste that is exempted from the permitting requirements and the beneficial use or uses for which the solid waste is so exempted. The department shall consider: (a) Whether the material will be beneficially used or reused; and (b) whether the beneficial use or reuse of the material will present threats to human health or the environment.

(2) The department may also exempt a solid waste from the permitting requirements of this chapter for one or more beneficial uses by approving an application for such an exemption. The department shall establish by rule procedures under which a person may apply to the department for such an exemption. The rules shall establish criteria for providing such an exemption, which shall include, but not be limited to: (a) The material will be beneficially used or reused; and (b) the beneficial use or reuse of the material will not present threats to human health or the environment. Rules adopted under this subsection shall identify the information that an application shall contain. Persons seeking such an exemption shall apply to the department under the procedures established by the rules adopted under this subsection.

(3) After receipt of an application filed under rules adopted under subsection (2) of this section, the department shall review the application to determine whether it is complete, and forward a copy of the completed application to all jurisdictional health departments and the department of agriculture for review and comment. Within forty-five days, the jurisdictional health departments and the department of agriculture shall forward to the department their comments and any other information they deem relevant to the department's decision to approve or disapprove the application. The department

of agriculture's comments must be limited to addressing whether approving the application risks spreading disease, plant pathogens, or pests to areas that are not under a quarantine, as defined in RCW 17.24.007. Every complete application shall be approved or disapproved by the department within ninety days of receipt. If the application is approved by the department, the solid waste is exempt from the permitting requirements of this chapter when used anywhere in the state in the manner approved by the department. If the composition, use, or reuse of the solid waste is not consistent with the terms and conditions of the department's approval of the application, the use of the solid waste remains subject to the permitting requirements of this chapter.

(4) The department shall establish procedures by rule for providing to the public and the solid waste industry notice of and an opportunity to comment on each application for an exemption under subsection (2) of this section.

(5) Any jurisdictional health department or applicant may appeal the decision of the department to approve or disapprove an application under subsection (3) of this section. The appeal shall be made to the pollution control hearings board by filing with the hearings board a notice of appeal within thirty days of the decision of the department. The hearings board's review of the decision shall be made in accordance with chapter 43.21B RCW and any subsequent appeal of a decision of the board shall be made in accordance with RCW 43.21B.180.

(6) This section shall not be deemed to invalidate the exemptions or determinations of nonapplicability in the department's solid waste rules as they exist on June 11, 1998, which exemptions and determinations are recognized and confirmed subject to the department's continuing authority to modify or revoke those exemptions or determinations by rule.

Sec. 7. RCW 70.95.205 and 1998 c 36 s 18 are each amended to read as follows:

(1) Waste-derived soil amendments that meet the standards and criteria in this section may apply for exemption from solid waste permitting as required under RCW 70.95.170. The application shall be submitted to the department in a format determined by the department or an equivalent format. The application shall include:

(a) Analytical data showing that the waste-derived soil amendments meet standards established under RCW 15.54.800; and

(b) Other information deemed appropriate by the department to protect human health and the environment.

(2) After receipt of an application, the department shall review it to determine whether the application is complete, and forward a copy of the complete application to all interested jurisdictional health departments and the department of agriculture for review and comment. Within forty-five days, the jurisdictional health departments and the department of agriculture shall forward their comments and any other information they deem relevant to the department, which shall then give final approval or disapproval of the application. The department of agriculture's comments must be limited to addressing whether approving the application risks spreading disease, plant pathogens, or pests to areas that are not under a quarantine, as defined in RCW 17.24.007. Every complete application shall be approved or disapproved by the department within ninety days after receipt.

(3) The department, after providing opportunity for comments from the jurisdictional health departments and the department of agriculture, may at any time revoke an exemption granted under this section if the quality or use of the waste-derived soil amendment changes or the management, storage, or end use of the waste-derived soil amendment constitutes a threat to human health or the environment.

(4) Any aggrieved party may appeal the determination by the department in subsection (2) or (3) of this section to the pollution control hearings board.

Sec. 8. RCW 70.95.315 and 2009 c 178 s 5 are each amended to read as follows:

(1) The department may assess a civil penalty in an amount not to exceed one thousand dollars per day per violation to any person exempt from solid waste permitting in accordance with RCW 70.95.205, 70.95.300, 70.95.305, 70.95.306, or 70.95.330 who fails to comply with the terms and conditions of the exemption. Each such violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation. The penalty provided in this section shall be imposed pursuant to RCW 43.21B.300.

(2) If a person violates a provision of any of the sections referenced in subsection (1) of this section, the department may issue an appropriate order to ensure compliance with the conditions of the exemption. The order may be appealed pursuant to RCW 43.21B.310.

Passed by the Senate March 7, 2016.

Passed by the House March 4, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.

CHAPTER 120

[Engrossed Senate Bill 5873]

LEOFF PLAN 1 RETIREES--SURVIVOR BENEFIT OPTION

AN ACT Relating to permitting persons retired from the law enforcement officers' and firefighters' retirement system plan 1 to select a survivor benefit option; and amending RCW 41.26.164.

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

Sec. 1. RCW 41.26.164 and 2005 c 67 s 1 are each amended to read as follows:

(1) No later than July 1, 2005, the department shall adopt rules to allow a member who meets the criteria set forth in subsection (2) of this section to choose an actuarially equivalent benefit that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of a spouse ineligible for survivor benefits under RCW 41.26.160 or 41.26.161.

(2) To choose an actuarially equivalent benefit according to subsection (1) of this section, a member shall:

(a) Have a portion of the retirement allowance payable to the retiree that is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670; and

(b) Choose an actuarially reduced benefit equivalent to that portion not subject to periodic payments under (a) of this subsection during a one-year period beginning one year after the date of marriage to the survivor benefit-ineligible spouse.

(3)(a) A member who married a spouse ineligible for survivor benefits under RCW 41.26.160 or 41.26.161 prior to the effective date of the rules adopted under this section and satisfies subsection (2)(a) of this section has one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A member who married a spouse ineligible for survivor benefits under RCW 41.26.160 or 41.26.161, has been married to that spouse for at least two years prior to September 1, 2015, and satisfies subsection (2)(a) of this section has one year from September 1, 2015, to designate their spouse as a survivor beneficiary. The office of the state actuary must provide the department with administrative factors to ensure that the benefits provided under this section are actuarially equivalent.

(c) A deceased member's spouse who was eligible to be provided a survivor benefit under RCW 41.26.164(1) but the member did not select a survivor benefit, and who prior to March 1, 2015, exhausted all administrative remedies with the department for establishing eligibility for a benefit under RCW 41.26.164, is eligible beginning August 1, 2015, for a retirement allowance equal to two-thirds of the gross monthly retirement allowance the retired member received at the time of death.

(4) No benefit provided to a child survivor beneficiary under RCW 41.26.160 or 41.26.161 is affected or reduced by the member's selection of the actuarially reduced spousal survivor benefit provided by this section.

(5)(a) Any member who chose to receive a reduced retirement allowance under subsection (1) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection if:

(i) The retiree's survivor spouse designated in subsection (1) of this section predeceases the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree from the beginning of the month following the date of the beneficiary's death shall be increased by the following:

(i) One hundred percent multiplied by the result of (b)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor.

Passed by the Senate February 5, 2016.

Passed by the House March 3, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.

CHAPTER 121

[Engrossed House Bill 1578]

INSURANCE--CUSTOMER SATISFACTION BENEFITS

AN ACT Relating to authorizing insurers to offer customer satisfaction benefits; and adding a new section to chapter 48.18 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 48.18 RCW to read as follows:

(1) An insurer may include contractual benefits based on customer satisfaction as part of an insurance policy. The insurer must file the policy or endorsement for approval as required by RCW 48.18.100. The contractual benefits may include sums of money provided or credited to a policyholder if the policyholder is dissatisfied with the service provided by their insurer. A sum that is provided to or credited to a policyholder as part of an approved contractual benefit based on customer satisfaction is not "premium" for the purposes of RCW 48.18.170. A policy premium reduced by such a credit will be taxed on the full cost of the premium before application of the customer satisfaction credit.

(2) This section applies only to personal insurance as defined in RCW 48.18.545(1)(g).

Passed by the House February 16, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 122

[House Bill 2332]

HEALTH CARE PROVIDER COMPENSATION--EXHIBITS--CONFIDENTIALITY

AN ACT Relating to the filing and public disclosure of health care provider compensation; reenacting and amending RCW 42.56.400; reenacting RCW 48.46.243; creating a new section; repealing RCW 48.44.070; and repealing 2015 c 122 s 24, 2015 c 17 s 16, and 2013 c 277 s 6 (uncodified).

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature to allow certain provider compensation exhibits to remain confidential by making permanent the provisions of chapter 277, Laws of 2013, which currently expire July 1, 2017, thereby maintaining efficient review and approval of health care plans by the insurance commissioner and fostering innovation in the Washington health insurance market.

NEW SECTION. **Sec. 2.** RCW 48.44.070 (Contracts to be filed with commissioner—Temporary suspension) and 2013 c 277 s 2, 1990 c 120 s 9, 1965 c 87 s 2, & 1961 c 197 s 4 are each repealed.

Sec. 3. RCW 48.46.243 and 2013 c 325 s 2 and 2013 c 277 s 3 are each reenacted to read as follows:

(1) Subject to subsection (2) of this section, every contract between a health maintenance organization and its participating providers of health care services shall be in writing and shall set forth that in the event the health maintenance

organization fails to pay for health care services as set forth in the agreement, the enrolled participant shall not be liable to the provider for any sums owed by the health maintenance organization. Every such contract shall provide that this requirement shall survive termination of the contract.

(2) The provisions of subsection (1) of this section shall not apply:

(a) To emergency care from a provider who is not a participating provider;

(b) To out-of-area services;

(c) To the delivery of covered pediatric oral services that are substantially equal to the essential health benefits benchmark plan; or

(d) In exceptional situations approved in advance by the commissioner, if the health maintenance organization is unable to negotiate reasonable and cost-effective participating provider contracts.

(3) No participating provider, or insurance producer, trustee, or assignee thereof, may maintain an action against an enrolled participant to collect sums owed by the health maintenance organization.

Sec. 4. RCW 42.56.400 and 2015 c 122 s 13 and 2015 c 17 s 10 are each reenacted and amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30A.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, and 48.31B.035, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210;

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017;

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5); and

((~~(23) [(24)]~~)) (24) Documents, materials, or information obtained by the insurance commissioner under chapter 48.05A RCW.

NEW SECTION. **Sec. 5.** The following acts or parts of acts are each repealed:

(1) 2015 c 122 s 24 (uncodified);

(2) 2015 c 17 s 16 (uncodified); and

(3) 2013 c 277 s 6 (uncodified).

Passed by the House February 16, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 123

[Second Substitute House Bill 2335]

HEALTH CARE PROVIDERS--CREDENTIALING--APPLICATIONS

AN ACT Relating to health care provider credentialing; adding a new section to chapter 48.43 RCW; adding a new section to chapter 43.70 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 48.43 RCW to read as follows:

(1)(a) A health carrier shall use the database selected pursuant to RCW 48.165.035 to accept and manage credentialing applications from health care providers.

(b) Effective June 1, 2018, a health carrier shall make a determination approving or denying a credentialing application submitted to the carrier no later than ninety days after receiving a complete application from a health care provider.

(c) Effective June 1, 2020, a health carrier shall make a determination approving or denying a credentialing application submitted to the carrier no later than ninety days after receiving a complete application from a health care provider. All determinations made by a health carrier in approving or denying credentialing applications must average no more than sixty days.

(d) This section does not require health carriers to approve a credentialing application or to place providers into a network.

(2) This section does not apply to health care entities that utilize credentialing delegation arrangements in the credentialing of their health care providers with health carriers.

(3) For purposes of this section, "credentialing" means the collection, verification, and assessment of whether a health care provider meets relevant licensing, education, and training requirements.

(4) Nothing in this section creates an oversight or enforcement duty on behalf of the office of the insurance commissioner against a health carrier for failure to comply with the terms of this section.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.70 RCW to read as follows:

(1) When submitting a credentialing application to a health carrier, a health care provider shall submit the application to health carriers using the database selected pursuant to RCW 48.165.035.

(2) A health care provider shall update credentialing information as necessary to provide for the purposes of recredentialing.

(3) This section does not apply to providers practicing at entities that utilize credentialing delegation arrangements in the credentialing of their health care providers with health carriers.

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

(a) "Credentialing" has the same meaning as in section 1 of this act.

(b) "Health care provider" has the same meaning as in RCW 48.43.005(23)(a).

(c) "Health carrier" has the same meaning as in RCW 48.43.005.

NEW SECTION. **Sec. 3.** This act takes effect June 1, 2018.

Passed by the House February 11, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 124

[House Bill 2350]

MEDICAL ASSISTANTS--ADMINISTRATION OF MEDICATION--DEFINITION

AN ACT Relating to defining the administration of medication by medical assistants; and amending RCW 18.360.010.

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

Sec. 1. RCW 18.360.010 and 2012 c 153 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) "Administer" means the retrieval of medication, and its application to a patient, as authorized in RCW 18.360.050.

(2) "Delegation" means direct authorization granted by a licensed health care practitioner to a medical assistant to perform the functions authorized in this chapter which fall within the scope of practice of the health care provider and the training and experience of the medical assistant.

((~~(2)~~)) (3) "Department" means the department of health.

((~~(3)~~)) (4) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician and surgeon licensed under chapter 18.57 RCW; or

(c) Acting within the scope of their respective licensure, a podiatric physician and surgeon licensed under chapter 18.22 RCW, a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician assistant licensed under chapter 18.57A RCW, or an optometrist licensed under chapter 18.53 RCW.

((~~(4)~~)) (5) "Medical assistant-certified" means a person certified under RCW 18.360.040 who assists a health care practitioner with patient care, executes

administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

((~~(5)~~)) (6) "Medical assistant-hemodialysis technician" means a person certified under RCW 18.360.040 who performs hemodialysis and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

((~~(6)~~)) (7) "Medical assistant-phlebotomist" means a person certified under RCW 18.360.040 who performs capillary, venous, and arterial invasive procedures for blood withdrawal and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

((~~(7)~~)) (8) "Medical assistant-registered" means a person registered under RCW 18.360.040 who, pursuant to an endorsement by a health care practitioner, clinic, or group practice, assists a health care practitioner with patient care, executes administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

((~~(8)~~)) (9) "Secretary" means the secretary of the department of health.

((~~(9)~~)) (10) "Supervision" means supervision of procedures permitted pursuant to this chapter by a health care practitioner who is physically present and is immediately available in the facility. The health care practitioner does not need to be present during procedures to withdraw blood, but must be immediately available.

Passed by the House February 16, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 125

[House Bill 2356]

PERSONAL VEHICLE USE BY EMPLOYEES--COST REIMBURSEMENT AGREEMENTS--REGULATION

AN ACT Relating to employer agreements to reimburse certain employee costs for the use of personal vehicles for business purposes; and reenacting and amending RCW 48.110.015.

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

Sec. 1. RCW 48.110.015 and 2006 c 274 s 2 and 2006 c 36 s 16 are each reenacted and amended to read as follows:

(1) The following are exempt from this title:

(a) Warranties;

(b) Maintenance agreements;

(c) Service contracts:

(i) Paid for with separate and additional consideration;

(ii) Issued at the point of sale, or within sixty days of the original purchase date of the property; and

(iii) On tangible property when the tangible property for which the service contract is sold has a purchase price of fifty dollars or less, exclusive of sales tax; and

(d) Agreements whereby a third party contracted by an employer provides mileage reimbursement and incidental maintenance and repairs to the employer's employees for personal vehicles used for business purposes, provided that such agreement does not provide indemnification or repairs for a loss caused by theft, collision, fire, or other peril typically covered in the comprehensive section of an automobile insurance policy.

(2) This chapter does not apply to:

(a) Vehicle mechanical breakdown insurance;

(b) Service contracts on tangible personal property purchased by persons who are not consumers; and

(c) Home heating fuel service contracts offered by home heating energy providers.

Passed by the House March 7, 2016.

Passed by the Senate March 2, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.

CHAPTER 126

[House Bill 2391]

COUNTY PAYROLLS--DRAW DAYS

AN ACT Relating to county payroll draw days; and amending RCW 36.17.040.

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

Sec. 1. RCW 36.17.040 and 1991 c 363 s 53 are each amended to read as follows:

The salaries of county officers and employees of counties other than counties with a population of less than five thousand may be paid twice monthly out of the county treasury, and the county auditor, for services rendered from the first to the fifteenth day, inclusive, may, not later than the last day of the month, draw a warrant upon the county treasurer in favor of each of such officers and employees for the amount of salary due him or her, and such auditor, for services rendered from the sixteenth to the last day, inclusive, may similarly draw a warrant, not later than the fifteenth day of the following month, and the county legislative authority, with the concurrence of the county auditor, may enter an order on the record journal empowering him or her so to do: PROVIDED, That if the county legislative authority does not adopt the semimonthly pay plan, it, by resolution, shall designate the first pay period as a draw day. Not more than ((~~forty~~)) fifty percent of said earned monthly salary of each such county officer or employee shall be paid to him or her on the draw day ((~~and the payroll deductions of such officer or employee shall not be deducted from the salary to be paid on the draw day~~)). If officers and employees are paid once a month, the draw day shall not be later than the last day of each month. The balance of the earned monthly salary of each such officer or employee shall be paid not later than the fifteenth day of the following month.

In counties with a population of less than five thousand salaries shall be paid monthly unless the county legislative authority by resolution adopts the foregoing draw day procedure.

Passed by the House February 11, 2016.

Passed by the Senate March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 127

[Engrossed Substitute House Bill 2433]
CERTIFIED PUBLIC ACCOUNTANT FIRMS--MOBILITY

AN ACT Relating to certified public accountant firm mobility; and amending RCW 18.04.025, 18.04.055, 18.04.105, 18.04.195, 18.04.345, 18.04.205, and 18.04.350.

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

Sec. 1. RCW 18.04.025 and 2008 c 16 s 2 are each amended to read as follows:

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

(1) "Attest" means providing the following ((~~financial statement~~)) services:

(a) Any audit or other engagement to be performed in accordance with the statements on auditing standards;

(b) Any review of a financial statement to be provided in accordance with the statements on standards for accounting and review services;

(c) Any ((~~examination of prospective financial information~~)) engagement to be performed in accordance with the statements on standards for attestation engagements; and

(d) Any engagement to be performed in accordance with the public company accounting oversight board auditing standards.

(2) "Board" means the board of accountancy created by RCW 18.04.035.

(3) "Certificate" means a certificate as a certified public accountant issued prior to July 1, 2001, as authorized under the provisions of this chapter.

(4) "Certificate holder" means the holder of a certificate as a certified public accountant who has not become a licensee, has maintained CPE requirements, and who does not practice public accounting.

(5) "Certified public accountant" or "CPA" means a person holding a certified public accountant license or certificate.

(6) "Compilation" means providing a service to be performed in accordance with statements on standards for accounting and review services that is presenting in the form of financial statements, information that is the representation of management (owners) without undertaking to express any assurance on the statements.

(7) "CPE" means continuing professional education.

(8) "Firm" means a sole proprietorship, a corporation, or a partnership. "Firm" also means a limited liability company formed under chapter 25.15 RCW.

(9) "Holding out" means any representation to the public by the use of restricted titles as set forth in RCW 18.04.345 by a person or firm that the person or firm holds a license under this chapter and that the person or firm offers to perform any professional services to the public as a licensee. "Holding out" shall not affect or limit a person or firm not required to hold a license under this chapter from engaging in practices identified in RCW 18.04.350.

(10) ((~~"Home office" is the location specified by the client as the address to which a service is directed.~~

~~(11)~~)) "Inactive" means the certificate is in an inactive status because a person who held a valid certificate before July 1, 2001, has not met the current requirements of licensure and has been granted inactive certificate holder status through an approval process established by the board.

((~~(12)~~)) (11) "Individual" means a living, human being.

((~~(13)~~)) (12) "License" means a license to practice public accountancy issued to an individual under this chapter, or a license issued to a firm under this chapter.

((~~(14)~~)) (13) "Licensee" means the holder of a license to practice public accountancy issued under this chapter.

((~~(15)~~)) (14) "Manager" means a manager of a limited liability company licensed as a firm under this chapter.

((~~(16)~~)) (15) "NASBA" means the national association of state boards of accountancy.

((~~(17)~~)) (16) "Peer review" means a study, appraisal, or review of one or more aspects of the attest or compilation work of a licensee or licensed firm in the practice of public accountancy, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed, including a peer review, or any internal review or inspection intended to comply with quality control policies and procedures, but not including the "quality assurance review" under subsection ((~~(21)~~)) (20) of this section.

((~~(18)~~)) (17) "Person" means any individual, nongovernmental organization, or business entity regardless of legal form, including a sole proprietorship, firm, partnership, corporation, limited liability company, association, or not-for-profit organization, and including the sole proprietor, partners, members, and, as applied to corporations, the officers.

((~~(19)~~)) (18) "Practice of public accounting" means performing or offering to perform by a person or firm holding itself out to the public as a licensee, for a client or potential client, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of "((~~audit~~)) reports," ((~~"review reports," or "compilation reports" on financial statements,~~)) or one or more kinds of management advisory, or consulting services, or the preparation of tax returns, or the furnishing of advice on tax matters. "Practice of public accounting" shall not include practices that are permitted under the provisions of RCW 18.04.350(10) by persons or firms not required to be licensed under this chapter.

((~~(20)~~)) (19) "Principal place of business" means the office location designated by the licensee for purposes of substantial equivalency and reciprocity.

((~~(21)~~)) (20) "Quality assurance review" means a process established by and conducted at the direction of the board of study, appraisal, or review of one or more aspects of the attest or compilation work of a licensee or licensed firm in the practice of public accountancy, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed.

((~~(22) "Reports on financial statements" means any reports or opinions prepared by licensees or persons holding practice privileges under substantial equivalency, based on services performed in accordance with generally accepted~~

~~auditing standards, standards for attestation engagements, or standards for accounting and review services as to whether the presentation of information used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private, or governmental, conforms with generally accepted accounting principles or another comprehensive basis of accounting. "Reports on financial statements" does not include services referenced in RCW 18.04.350(10) provided by persons not holding a license under this chapter.~~

~~(23)~~)) (21) "Report," when used with reference to any attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of the attested information or compiled financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in the practice of public accounting. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is involved in the practice of public accounting, or from the language of the report itself. "Report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled financial statements referred to and/or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance and/or such special knowledge or competence. "Report" does not include services referenced in RCW 18.04.350 (10) or (11) provided by persons not holding a license under this chapter as provided in RCW 18.04.350(14).

(22) "Review committee" means any person carrying out, administering or overseeing a peer review authorized by the reviewee.

((~~(24)~~)) (23) "Rule" means any rule adopted by the board under authority of this chapter.

((~~(25)~~)) (24) "Sole proprietorship" means a legal form of organization owned by one person meeting the requirements of RCW 18.04.195.

((~~(26)~~)) (25) "State" includes the states of the United States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands at such time as the board determines that the Commonwealth of the Northern Mariana Islands is issuing licenses under the substantially equivalent standards in RCW 18.04.350(2)(a).

Sec. 2. RCW 18.04.055 and 2001 c 294 s 5 are each amended to read as follows:

The board may adopt and amend rules under chapter 34.05 RCW for the orderly conduct of its affairs. The board shall prescribe rules consistent with this chapter as necessary to implement this chapter. Included may be:

(1) Rules of procedure to govern the conduct of matters before the board;

(2) Rules of professional conduct for all licensees, certificate holders, and nonlicensee owners of licensed firms, in order to establish and maintain high standards of competence and ethics including rules dealing with independence, integrity, objectivity, and freedom from conflicts of interest;

(3) Rules specifying actions and circumstances deemed to constitute holding oneself out as a licensee in connection with the practice of public accountancy;

(4) Rules specifying the manner and circumstances of the use of the titles "certified public accountant" and "CPA," by holders of certificates who do not also hold licenses under this chapter;

(5) Rules specifying the educational requirements to take the certified public accountant examination;

(6) Rules designed to ensure that licensees' "reports ((~~on financial statements~~))" meet the definitional requirements for that term as specified in RCW 18.04.025;

(7) Requirements for CPE to maintain or improve the professional competence of licensees as a condition to maintaining their license and certificate holders as a condition to maintaining their certificate under RCW 18.04.215;

(8) Rules governing firms issuing or offering to issue reports ((~~on financial statements or~~)) using the title "certified public accountant" or "CPA" including, but not limited to, rules concerning their style, name, title, and affiliation with any other organization, and establishing reasonable practice and ethical standards to protect the public interest;

(9) The board may by rule implement a quality assurance review program as a means to monitor licensees' quality of practice and compliance with professional standards. The board may exempt from such program, licensees who undergo periodic peer reviews in programs of the American Institute of Certified Public Accountants, NASBA, or other programs recognized and approved by the board;

(10) The board may by rule require licensed firms to obtain professional liability insurance if in the board's discretion such insurance provides additional and necessary protection for the public;

(11) Rules specifying the experience requirements in order to qualify for a license;

(12) Rules specifying the requirements for certificate holders to qualify for a license under this chapter which must include provisions for meeting CPE and experience requirements prior to application for licensure;

(13) Rules specifying the registration requirements, including ethics examination and fee requirements, for resident nonlicensee partners, shareholders, and managers of licensed firms;

(14) Rules specifying the ethics CPE requirements for certificate holders and owners of licensed firms, including the process for reporting compliance with those requirements;

(15) Rules specifying the experience and CPE requirements for licensees offering or issuing reports ((~~on financial statements~~)); and

(16) Any other rule which the board finds necessary or appropriate to implement this chapter.

Sec. 3. RCW 18.04.105 and 2004 c 159 s 2 are each amended to read as follows:

(1) A license to practice public accounting shall be granted by the board to any person:

(a) Who is of good character. Good character, for purposes of this section, means lack of a history of dishonest or felonious acts. The board may refuse to grant a license on the ground of failure to satisfy this requirement only if there is a substantial connection between the lack of good character of the applicant and the professional and ethical responsibilities of a licensee and if the finding by the board of lack of good character is supported by a preponderance of evidence. When an applicant is found to be unqualified for a license because of a lack of good character, the board shall furnish the applicant a statement containing the findings of the board and a notice of the applicant's right of appeal;

(b) Who has met the educational standards established by rule as the board determines to be appropriate;

(c) Who has passed an examination;

(d) Who has had one year of experience which is gained:

(i) Through the use of accounting, issuing reports ((~~on financial statements~~)), management advisory, financial advisory, tax, tax advisory, or consulting skills;

(ii) While employed in government, industry, academia, or public practice; and

(iii) Meeting the competency requirements in a manner as determined by the board to be appropriate and established by board rule; and

(e) Who has paid appropriate fees as established by rule by the board.

(2) The examination described in subsection (1)(c) of this section shall test the applicant's knowledge of the subjects of accounting and auditing, and other related fields the board may specify by rule. The time for holding the examination is fixed by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and taking the examination, including methods for grading examinations and determining a passing grade required of an applicant for a license. The board shall to the extent possible see to it that the grading of the examination, and the passing grades, are uniform with those applicable to all other states. The board may make use of all or a part of the uniform certified public accountant examination and advisory grading service of the American Institute of Certified Public Accountants and may contract with third parties to perform administrative services with respect to the examination as the board deems appropriate to assist it in performing its duties under this chapter. The board shall establish by rule provisions for transitioning to a new examination structure or to a new media for administering the examination.

(3) The board shall charge each applicant an examination fee for the initial examination or for reexamination. The applicable fee shall be paid by the person at the time he or she applies for examination, reexamination, or evaluation of educational qualifications. Fees for examination, reexamination, or evaluation of educational qualifications shall be determined by the board under chapter 18.04 RCW. There is established in the state treasury an account to be known as the certified public accountants' account. All fees received from candidates to take any or all sections of the certified public accountant examination shall be used only for costs related to the examination.

(4) Persons who on June 30, 2001, held valid certificates previously issued under this chapter shall be deemed to be certificate holders, subject to the following:

(a) Certificate holders may, prior to June 30, 2006, petition the board to become licensees by documenting to the board that they have gained one year of experience through the use of accounting, issuing reports ((~~on financial statements~~)), management advisory, financial advisory, tax, tax advisory, or consulting skills, without regard to the eight-year limitation set forth in (b) of this subsection, while employed in government, industry, academia, or public practice.

(b) Certificate holders who do not petition to become licensees prior to June 30, 2006, may after that date petition the board to become licensees by documenting to the board that they have one year of experience acquired within eight years prior to applying for a license through the use of accounting, issuing reports ((~~on financial statements~~)), management advisory, financial advisory, tax, tax advisory, or consulting skills in government, industry, academia, or public practice.

(c) Certificate holders who petition the board pursuant to (a) or (b) of this subsection must also meet competency requirements in a manner as determined by the board to be appropriate and established by board rule.

(d) Any certificate holder petitioning the board pursuant to (a) or (b) of this subsection to become a licensee must submit to the board satisfactory proof of having completed an accumulation of one hundred twenty hours of CPE during the thirty-six months preceding the date of filing the petition.

(e) Any certificate holder petitioning the board pursuant to (a) or (b) of this subsection to become a licensee must pay the appropriate fees established by rule by the board.

(5) Certificate holders shall comply with the prohibition against the practice of public accounting in RCW 18.04.345.

(6) Persons who on June 30, 2001, held valid certificates previously issued under this chapter are deemed to hold inactive certificates, subject to renewal as inactive certificates, until they have petitioned the board to become licensees and have met the requirements of subsection (4) of this section. No individual who did not hold a valid certificate before July 1, 2001, is eligible to obtain an inactive certificate.

(7) Persons deemed to hold inactive certificates under subsection (6) of this section shall comply with the prohibition against the practice of public accounting in subsection (8)(b) of this section and RCW 18.04.345, but are not required to display the term inactive as part of their title, as required by subsection (8)(a) of this section until renewal. Certificates renewed to any persons after June 30, 2001, are inactive certificates and the inactive certificate holders are subject to the requirements of subsection (8) of this section.

(8) Persons holding an inactive certificate:

(a) Must use or attach the term "inactive" whenever using the title CPA or certified public accountant or referring to the certificate, and print the word "inactive" immediately following the title, whenever the title is printed on a business card, letterhead, or any other document, including documents published or transmitted through electronic media, in the same font and font size as the title; and

(b) Are prohibited from practicing public accounting.

Sec. 4. RCW 18.04.195 and 2008 c 16 s 3 are each amended to read as follows:

(1) The board shall grant or renew licenses to practice as a CPA firm to applicants that demonstrate their qualifications therefore in accordance with this section.

(a) The following must hold a license issued under this section:

(i) Any firm with an office in this state performing attest services as defined in RCW 18.04.025(1) or compilations as defined in RCW 18.04.025(6);

(ii) Any firm with an office in this state that uses the title "CPA" or "CPA firm"; or

(iii) Any firm that does not have an office in this state but ((~~performs~~)) offers or renders attest services described in RCW 18.04.025(((~~(1) (a), (c), or (d) for a client having its home office~~)) in this state, unless it meets each of the following requirements:

(A) Complies with the qualifications described in subsection (3)(c), (4)(a), or (5)(c) of this section;

(B) Meets the board's quality assurance review program requirements authorized by RCW 18.04.055(9) and the rules implementing such section;

(C) Performs such services through an individual with practice privileges under RCW 18.04.350(2); and

(D) Can lawfully do so in the state where said individuals with practice privileges have their principal place of business.

(b) A firm that is not subject to the requirements of subsection (1)(a)(((~~(iii)~~))) of this section may perform compilation services described in RCW 18.04.025(6) and other nonattest professional services while using the title "CPA" or "CPA firm" in this state without a license issued under this section only if:

(i) The firm performs such services through an individual with practice privileges under RCW 18.04.350(2); and

(ii) The firm can lawfully do so in the state where said individuals with practice privileges have their principal place of business((~~; and~~

~~(iii) A firm performing services described in RCW 18.04.025 (1)(b) and (6) meets the board's quality assurance [review] program requirements authorized by RCW 18.04.055(9) and the rules implementing that section~~)).

(2) A sole proprietorship required to obtain a license under subsection (1) of this section shall license, as a firm, every three years with the board.

(a) The sole proprietor shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215, or, in the case of a sole proprietorship that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(b) Each resident individual in charge of an office located in this state shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215; and

(c) The licensed firm must meet ((~~competency~~)) requirements established by rule by the board.

(3) A partnership required to obtain a license under subsection (1) of this section shall license as a firm every three years with the board, and shall meet the following requirements:

(a) At least one general partner of the partnership shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215, or, in the case of a partnership that must obtain a license pursuant to subsection (1)(a)(iii) of this

section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(b) Each resident individual in charge of an office in this state shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215;

(c) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all partners or owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state. The principal partner of the partnership and any partner having authority over issuing reports ((~~on financial statements~~)) shall hold a license under this chapter or issued by another state; and

(d) The licensed firm must meet ((~~competency~~)) requirements established by rule by the board.

(4) A corporation required to obtain a license under subsection (1) of this section shall license as a firm every three years with the board and shall meet the following requirements:

(a) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all shareholders or owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state and is principally employed by the corporation or actively engaged in its business. The principal officer of the corporation and any officer or director having authority over issuing reports ((~~on financial statements~~)) shall hold a license under this chapter or issued by another state;

(b) At least one shareholder of the corporation shall hold a license under RCW 18.04.105 and 18.04.215, or, in the case of a corporation that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(c) Each resident individual in charge of an office located in this state shall hold and renew a license under RCW 18.04.105 and 18.04.215;

(d) A written agreement shall bind the corporation or its shareholders to purchase any shares offered for sale by, or not under the ownership or effective control of, a qualified shareholder, and bind any holder not a qualified shareholder to sell the shares to the corporation or its qualified shareholders. The agreement shall be noted on each certificate of corporate stock. The corporation may purchase any amount of its stock for this purpose, notwithstanding any impairment of capital, as long as one share remains outstanding;

(e) The corporation shall comply with any other rules pertaining to corporations practicing public accounting in this state as the board may prescribe; and

(f) The licensed firm must meet ((~~competency~~)) requirements established by rule by the board.

(5) A limited liability company required to obtain a license under subsection (1) of this section shall license as a firm every three years with the board, and shall meet the following requirements:

(a) At least one member of the limited liability company shall hold a license under RCW 18.04.105 and 18.04.215, or, in the case of a limited liability company that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(b) Each resident manager or member in charge of an office located in this state shall hold and renew a license under RCW 18.04.105 and 18.04.215;

(c) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state. The principal member or manager of the limited liability company and any member having authority over issuing reports ((~~on financial statements~~)) shall hold a license under this chapter or issued by another state; and

(d) The licensed firm must meet ((~~competency~~)) requirements established by rule by the board.

(6) Application for a license as a firm with an office in this state shall be made upon the affidavit of the proprietor or individual designated as managing partner, member, or shareholder for Washington. This individual shall hold a license under RCW 18.04.215.

(7) In the case of a firm licensed in another state and required to obtain a license under subsection (1)(a)(iii) of this section, the application for the firm license shall be made upon the affidavit of an individual who qualifies for practice privileges in this state under RCW 18.04.350(2) who has been authorized by the applicant firm to make the application. The board shall determine in each case whether the applicant is eligible for a license.

(8) The board shall be given notification within ninety days after the admission or withdrawal of a partner, shareholder, or member engaged in this state in the practice of public accounting from any partnership, corporation, or limited liability company so licensed.

(9) Licensed firms that fall out of compliance with the provisions of this section due to changes in firm ownership, after receiving or renewing a license, shall notify the board in writing within ninety days of its falling out of compliance and propose a time period in which they will come back into compliance. The board may grant a reasonable period of time for a firm to be in compliance with the provisions of this section. Failure to bring the firm into compliance within a reasonable period of time, as determined by the board, may result in suspension, revocation, or imposition of conditions on the firm's license.

(10) Fees for the license as a firm and for notification of the board of the admission or withdrawal of a partner, shareholder, or member shall be determined by the board. Fees shall be paid by the firm at the time the license application form or notice of admission or withdrawal of a partner, shareholder, or member is filed with the board.

(11) Nonlicensee owners of licensed firms are:

(a) Required to fully comply with the provisions of this chapter and board rules;

(b) Required to be an individual;

(c) Required to be <u>of good character, as defined in RCW 18.04.105(1)(a), and</u> an active individual participant in the licensed firm or affiliated entities as these terms are defined by board rule; and

(d) Subject to discipline by the board for violation of this chapter.

(12) Resident nonlicensee owners of licensed firms are required to meet:

(a) The ethics examination, registration, and fee requirements as established by the board rules; and

(b) The ethics CPE requirements established by the board rules.

(13)(a) Licensed firms must notify the board within thirty days after:

(i) Sanction, suspension, revocation, or modification of their professional license or practice rights by the securities exchange commission, internal revenue service, or another state board of accountancy;

(ii) Sanction or order against the licensee or nonlicensee firm owner by any federal or other state agency related to the licensee's practice of public accounting or violation of ethical or technical standards established by board rule; or

(iii) The licensed firm is notified that it has been charged with a violation of law that could result in the suspension or revocation of the firm's license by a federal or other state agency, as identified by board rule, related to the firm's professional license, practice rights, or violation of ethical or technical standards established by board rule.

(b) The board must adopt rules to implement this subsection and may also adopt rules specifying requirements for licensees to report to the board sanctions or orders relating to the licensee's practice of public accounting or violation of ethical or technical standards entered against the licensee by a nongovernmental professionally related standard-setting entity.

Sec. 5. RCW 18.04.345 and 2009 c 116 s 1 are each amended to read as follows:

(1) No individual may assume or use the designation "certified public accountant-inactive" or "CPA-inactive" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a certified public accountant-inactive or CPA-inactive unless the individual holds a certificate. Individuals holding only a certificate may not practice public accounting.

(2) No individual may hold himself or herself out to the public or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a certified public accountant or CPA unless the individual qualifies for the privileges authorized by RCW 18.04.350(2) or holds a license under RCW 18.04.105 and 18.04.215.

(3) No firm with an office in this state may perform or offer to perform attest services as defined in RCW 18.04.025(1) or compilation services as defined in RCW 18.04.025(6) or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants or CPAs, unless the firm is licensed under RCW 18.04.195 and all offices of the firm in this state are maintained and registered under RCW 18.04.205. This subsection does not limit the services permitted under RCW 18.04.350(10) by persons not required to be licensed under this chapter.

(4) No firm may perform the services defined in RCW 18.04.025(1) ((~~(a), (c), or (d) for a client with its home office~~)) in this state unless the firm is licensed under RCW 18.04.195, renews the firm license as required under RCW 18.04.215, and all offices of the firm in this state are maintained and registered under RCW 18.04.205.

(5) No individual, partnership, limited liability company, or corporation offering public accounting services to the public may hold himself, herself, or

itself out to the public, or assume or use along, or in connection with his, hers, or its name, or any other name the title or designation "certified accountant," "chartered accountant," "licensed accountant," "licensed public accountant," "public accountant," or any other title or designation likely to be confused with "certified public accountant" or any of the abbreviations "CA," "LA," "LPA," or "PA," or similar abbreviations likely to be confused with "CPA."

(6) No licensed firm may operate under an alias, a firm name, title, or "DBA" that differs from the firm name that is registered with the board.

(7) No individual with an office in this state may sign, affix, or associate his or her name or any trade or assumed name used by the individual in his or her business to any report prescribed by professional standards unless the individual holds a license to practice under RCW 18.04.105 and 18.04.215, a firm holds a license under RCW 18.04.195, and all of the individual's offices in this state are registered under RCW 18.04.205.

(8) No individual licensed in another state may sign, affix, or associate a firm name to any report prescribed by professional standards, or associate a firm name in conjunction with the title certified public accountant, unless the individual:

(a) Qualifies for the practice privileges authorized by RCW 18.04.350(2); or

(b) Is licensed under RCW 18.04.105 and 18.04.215, and all of the individual's offices in this state are maintained and registered under RCW 18.04.205.

(9) No individual, partnership, limited liability company, or corporation not holding a license to practice under RCW 18.04.105 and 18.04.215, or firm not licensed under RCW 18.04.195 or firm not registering all of the firm's offices in this state under RCW 18.04.205, or not qualified for the practice privileges authorized by RCW 18.04.350(2), may hold himself, herself, or itself out to the public as an "auditor" with or without any other description or designation by use of such word on any sign, card, letterhead, or in any advertisement or directory.

(10) For purposes of this section, because individuals practicing using practice privileges under RCW 18.04.350(2) are deemed substantially equivalent to licensees under RCW 18.04.105 and 18.04.215, every word, term, or reference that includes the latter shall be deemed to include the former, provided the conditions of such practice privilege, as set forth in RCW 18.04.350 (4) and (5) are maintained.

(11) Notwithstanding anything to the contrary in this section, it is not a violation of this section for a firm that does not hold a valid license under RCW 18.04.195 and that does not have an office in this state to use the title "CPA" or "certified public accountant" as part of the firm's name and to provide its professional services in this state, and licensees and individuals with practice privileges may provide services on behalf of such firms so long as it complies with the requirements of RCW 18.04.195(1)((~~(b)~~)). An individual or firm authorized under this subsection to use practice privileges in this state must comply with the requirements otherwise applicable to licensees in this section.

Sec. 6. RCW 18.04.205 and 2008 c 16 s 4 are each amended to read as follows:

(1) Each office established or maintained in this state for the purpose of offering to issue or issuing ((~~attest or compilation~~)) reports in this state or that

uses the title "certified public accountant" or "CPA," shall register with the board under this chapter every three years.

(2) Each office established or maintained in this state shall be under the direct supervision of a resident licensee holding a license under RCW 18.04.105 and 18.04.215.

(3) The board shall by rule prescribe the procedure to be followed to register and maintain offices established in this state for the purpose of offering to issue or issuing attest or compilation reports or that use the title "certified public accountant" or "CPA."

(4) Fees for the registration of offices shall be determined by the board. Fees shall be paid by the applicant at the time the registration form is filed with the board.

Sec. 7. RCW 18.04.350 and 2008 c 16 s 6 are each amended to read as follows:

(1) Nothing in this chapter prohibits any individual not holding a license and not qualified for the practice privileges authorized by subsection (2) of this section from serving as an employee of a firm licensed under RCW 18.04.195 and 18.04.215. However, the employee shall not issue any ((~~compilation, review, audit, or examination~~)) report ((~~on financial or other information~~)) as defined in this chapter, on the information of any other persons, firms, or governmental units over his or her name.

(2) An individual whose principal place of business is not in this state shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state without the need to obtain a license under RCW 18.04.105 if the individual:

(a) Holds a valid license as a certified public accountant from any state that requires, as a condition of licensure, that an individual:

(i) Have at least one hundred fifty semester hours of college or university education including a baccalaureate or higher degree conferred by a college or university;

(ii) Achieve a passing grade on the uniform certified public accountant examination; and

(iii) Possess at least one year of experience including service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, all of which was verified by a licensee; or

(b) Holds a valid license as a certified public accountant from any state that does not meet the requirements of (a) of this subsection, but such individual's qualifications are substantially equivalent to those requirements. Any individual who passed the uniform certified public accountant examination and holds a valid license issued by any other state prior to January 1, 2012, may be exempt from the education requirements in (a)(i) of this subsection for purposes of this section.

(3) Notwithstanding any other provision of law, an individual who qualifies for the practice privilege under subsection (2) of this section may offer or render professional services, whether in person or by mail, telephone, or electronic means, and no notice, fee, or other submission shall be provided by any such individual. Such an individual shall be subject to the requirements of subsection (4) of this section.

(4) Any individual licensee of another state exercising the privilege afforded under subsection (2) of this section and the firm that employs that licensee simultaneously consent, as a condition of exercising this privilege:

(a) To the personal and subject matter jurisdiction and disciplinary authority of the board;

(b) To comply with this chapter and the board's rules;

(c) That in the event the license from the state of the individual's principal place of business is no longer valid, the individual will cease offering or rendering professional services in this state individually and on behalf of a firm; and

(d) To the appointment of the state board which issued the certificate or license as their agent upon whom process may be served in any action or proceeding by this state's board against the certificate holder or licensee.

(5) An individual who qualifies for practice privileges under subsection (2) of this section ((~~may, for any entity with its home office in this state, perform the following services only through a firm that has obtained a license under RCW 18.04.195 and 18.04.215:~~

~~(a) Any financial statement audit or other engagement to be performed in accordance with statements on auditing standards;~~

~~(b) Any examination of prospective financial information to be performed in accordance with statements on standards for attestation engagements; or~~

~~(c) Any engagement to be performed in accordance with public company accounting oversight board auditing standards~~)) who performs any attest service described in RCW 18.04.025(1) may only do so through a firm which has obtained a license under RCW 18.04.195 and 18.04.215 or which meets the requirements for an exception from the firm licensure requirements under RCW 18.04.195(1) (a)(iii) or (b).

(6) A licensee of this state offering or rendering services or using their CPA title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. Notwithstanding RCW 18.04.295 and this section, the board shall cooperate with and investigate any complaint made by the board of accountancy of another state or jurisdiction.

(7) Nothing in this chapter prohibits a licensee, a licensed firm, any of their employees, or persons qualifying for practice privileges by this section from disclosing any data in confidence to other certified public accountants, quality assurance or peer review teams, partnerships, limited liability companies, or corporations of certified public accountants or to the board or any of its employees engaged in conducting quality assurance or peer reviews, or any one of their employees in connection with quality or peer reviews of that accountant's accounting and auditing practice conducted under the auspices of recognized professional associations.

(8) Nothing in this chapter prohibits a licensee, a licensed firm, any of their employees, or persons qualifying for practice privileges by this section from disclosing any data in confidence to any employee, representative, officer, or committee member of a recognized professional association, or to the board, or any of its employees or committees in connection with a professional investigation held under the auspices of recognized professional associations or the board.

(9) Nothing in this chapter prohibits any officer, employee, partner, or principal of any organization:

(a) From affixing his or her signature to any statement or report in reference to the affairs of the organization with any wording designating the position, title, or office which he or she holds in the organization; or

(b) From describing himself or herself by the position, title, or office he or she holds in such organization.

(10) Nothing in this chapter prohibits any person or firm composed of persons not holding a license under this chapter from offering or rendering to the public bookkeeping, accounting, tax services, the devising and installing of financial information systems, management advisory, or consulting services, the preparation of tax returns, or the furnishing of advice on tax matters, ((~~the preparation of financial statements, written statements describing how such financial statements were prepared,~~)) or similar services, provided that persons, partnerships, limited liability companies, or corporations not holding a license who offer or render these services do not designate any written statement as ((~~an "audit report," "review report," or "compilation report," do not issue any written statement which purports to express or disclaim an opinion on financial statements which have been audited, and do not issue any written statement which expresses assurance on financial statements which have been reviewed~~)) a report as defined in RCW 18.04.025(21) or use any language in any statement relating to the financial affairs of a person or entity which is conventionally used by licensees in reports or any attest service as defined in this chapter.

(11) Nothing in this chapter prohibits any person or firm composed of persons not holding a license under this chapter from offering or rendering to the public the preparation of financial statements, or written statements describing how such financial statements were prepared, provided that persons, partnerships, limited liability companies, or corporations not holding a license who offer or render these services do not designate any written statement as a report as defined in RCW 18.04.025(21), do not issue any written statement that purports to express or disclaim an opinion on financial statements that have been audited, and do not issue any written statement that expresses assurance on financial statements that have been reviewed. The board may prescribe, by rule, language for the written statement describing how such financial statements were prepared for use by persons not holding a license under this chapter.

(12) Nothing in this chapter prohibits any act of or the use of any words by a public official or a public employee in the performance of his or her duties.

((~~(12)~~)) (13) Nothing contained in this chapter prohibits any person who holds only a valid certificate from assuming or using the designation "certified public accountant-inactive" or "CPA-inactive" or any other title, designation, words, letters, sign, card, or device tending to indicate the person is a certificate holder, provided, that such person does not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports ((~~on financial statements~~)) or of one or more kinds of management advisory, financial advisory, consulting services, the preparation of tax returns, or the furnishing of advice on tax matters.

((~~(13)~~)) (14) Nothing in this chapter prohibits the use of the title "accountant" by any person regardless of whether the person has been granted a certificate or holds a license under this chapter. Nothing in this chapter prohibits

the use of the title "enrolled agent" or the designation "EA" by any person regardless of whether the person has been granted a certificate or holds a license under this chapter if the person is properly authorized at the time of use to use the title or designation by the United States department of the treasury. The board shall by rule allow the use of other titles by any person regardless of whether the person has been granted a certificate or holds a license under this chapter if the person using the titles or designations is authorized at the time of use by a nationally recognized entity sanctioning the use of board authorized titles.

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CHAPTER 128

[Substitute House Bill 2498]

MEDICAL ASSISTANCE PROGRAMS--DENTAL--PRIOR AUTHORIZATION--WORK GROUP

AN ACT Relating to prior authorization for dental services and supplies in medical assistance programs; adding a new section to chapter 74.09 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 74.09 RCW to read as follows:

(1) The authority shall convene a work group or use an existing work group to make recommendations on ways to improve the prior authorization system for dental providers who provide dental services and related supplies to clients of medical assistance programs. The objective of the work group shall be to develop a prior authorization system that protects patients against unnecessary treatments and procedures while encouraging more dentists to treat medical assistance clients and increase their access to needed dental procedures.

(2) The recommendations shall identify:

(a) Current wait times for prior authorization approvals for dental services and supplies and options for reducing the time that medical assistance clients must wait for prior authorization decisions;

(b) Dental services and related supplies that are currently subject to prior authorization and which dental services and supplies must remain subject to prior authorization for purposes of maintaining quality controls and consistency with federal law and which dental services and supplies may be removed from prior authorization;

(c) Ways to reduce the cost and administrative burden of prior authorization requirements on dental providers; and

(d) Options to adjust payment practices for those dental services and supplies with prior authorization requirements.

(3) The work group must contain representatives of dental providers in private practices, dental providers in community health centers, oral health care advocates, and other relevant stakeholders.

(4) By December 15, 2016, the work group shall submit its recommendations to the director of the authority and the committees of the legislature with jurisdiction over health care issues.

(5) This section expires July 1, 2017.

Passed by the House February 16, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 129

[House Bill 2605]

BEER MANUFACTURERS--PRIVATE TASTING OR SELLING EVENT--SPECIAL PERMIT

AN ACT Relating to creating a special permit by a manufacturer of beer to hold a private event for the purpose of tasting and selling beer of its own production; and reenacting and amending RCW 66.20.010.

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

Sec. 1. RCW 66.20.010 and 2015 c 195 s 1, 2015 c 194 s 3, and 2015 c 59 s 1 are each reenacted and amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee must issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanitorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation;

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a liquor spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests;

(12) Where the application is for a special permit to allow tasting of alcohol by persons at least eighteen years of age under the following circumstances:

(a) The application is from a community or technical college as defined in RCW 28B.50.030, a regional university, or a state university;

(b) The person who is permitted to taste under this subsection is enrolled as a student in a required or elective class that is part of a culinary, sommelier, wine business, enology, viticulture, wine technology, beer technology, or spirituous technology-related degree program;

(c) The alcohol served to any person in the degree-related programs under (b) of this subsection is tasted but not consumed for the purposes of educational training as part of the class curriculum with the approval of the educational provider;

(d) The service and tasting of alcoholic beverages is supervised by a faculty or staff member of the educational provider who is twenty-one years of age or older. The supervising faculty or staff member shall possess a class 12 or 13 alcohol server permit under the provisions of RCW 66.20.310;

(e) The enrolled student permitted to taste the alcoholic beverages does not purchase the alcoholic beverages; and

(f) The permit fee for the special permit provided for in this subsection (12) must be waived by the board;

(13) Where the application is for a special permit by a distillery or craft distillery for an event not open to the general public to be held or conducted at a specific place, including at the licensed premise of the applying distillery or craft distillery, upon a specific date for the purpose of tasting and selling spirits of its own production. The distillery or craft distillery must obtain a permit for a fee of ten dollars per event. An application for the permit must be submitted for private banquet permits prior to the event and, once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No licensee may receive more than twelve permits under this subsection (13) each year;

(14) Where the application is for a special permit by a manufacturer of wine for an event not open to the general public to be held or conducted at a specific place upon a specific date for the purpose of tasting and selling wine of its own production. The winery must obtain a permit for a fee of ten dollars per event. An application for the permit must be submitted at least ten days before the event and once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No more than twelve events per year may be held by a single manufacturer under this subsection;

(15) Where the application is for a special permit by a manufacturer of beer for an event not open to the general public to be held or conducted at a specific place upon a specific date for the purpose of tasting and selling beer of its own production. The brewery or microbrewery must obtain a permit for a fee of ten dollars per event. An application for the permit must be submitted at least ten days before the event and once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No more than twelve events per year may be held by a single manufacturer under this subsection.

Passed by the House February 17, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 130

[House Bill 2624]

ELECTION ERRORS AND IRREGULARITIES--BALLOT MEASURES

AN ACT Relating to election errors involving measures; amending RCW 29A.68.011, 29A.68.020, 29A.68.030, 29A.68.050, 29A.68.070, 29A.68.080, 29A.68.090, 29A.68.110, and 29A.68.120; and adding a new section to chapter 29A.68 RCW.

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

Sec. 1. RCW 29A.68.011 and 2013 c 11 s 71 are each amended to read as follows:

Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or

(2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or

(3) The name of any person has been or is about to be wrongfully placed upon the ballots((~~; or~~

~~(4) A wrongful act other than as provided for in subsections (1) and (3) of this section has been performed or is about to be performed by any election officer; or~~

~~(5) Any neglect of duty on the part of an election officer other than as provided for in subsections (1) and (3) of this section has occurred or is about to occur; or~~

~~(6) An error or omission has occurred or is about to occur in the official certification of the election~~)).

An affidavit of an elector under ((~~subsections (1) and (3) of~~)) this section when relating to a primary election must be filed with the appropriate court no later than two days following the closing of the filing period for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under ((~~subsections (1) and (3) of~~)) this section when relating to a general election must be filed with the appropriate court no later than three days following the official certification of the primary election returns, or official certification of candidates qualified to appear on the general election ballot, whichever is later, and shall be heard and finally disposed of by the court not later than five days after the filing thereof. ((~~An affidavit of an elector under subsection (6) of this section shall be filed with the appropriate court no later than ten days following the official certification of the election as provided in RCW 29A.60.190, 29A.60.240, or 29A.60.250 or, in the case of a recount, ten days after the official certification of the amended abstract as provided in RCW 29A.64.061.~~))

NEW SECTION. **Sec. 2.** A new section is added to chapter 29A.68 RCW to read as follows:

Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) A wrongful act other than as provided for in RCW 29A.68.011 has been performed or is about to be performed by any election officer; or

(2) Any neglect of duty on the part of an election officer other than as provided for in RCW 29A.68.011 has occurred or is about to occur; or

(3) An error or omission has occurred or is about to occur in the official certification of any primary or election, including a challenge to the certification of any measure.

An affidavit of an elector under this subsection shall be filed with the appropriate court no later than ten days following the official certification of the primary or election as provided in RCW 29A.60.190, 29A.60.240, or 29A.60.250 or, in the case of a recount, ten days after the official certification of the amended abstract as provided in RCW 29A.64.061.

Sec. 3. RCW 29A.68.020 and 2013 c 11 s 72 are each amended to read as follows:

Any of the following causes may be asserted by a registered voter to challenge the right to assume office of a candidate declared elected to that office, to challenge the right of a candidate to appear on the general election ballot after a primary, or to challenge certification of the result of an election on any measure:

(1) For misconduct on the part of any election officer involved therein;

(2) Because the person whose right is being contested was not, at the time the person was declared elected, eligible to that office;

(3) Because the person whose right is being contested was, previous to the election, convicted of a felony by a court of competent jurisdiction, the conviction not having been reversed nor the person's civil rights restored after the conviction;

(4) Because the person whose right is being contested gave a bribe or reward to a voter or to an election officer for the purpose of procuring the election, or offered to do so;

(5) On account of illegal votes.

(a) Illegal votes include but are not limited to the following:

(i) More than one vote cast by a single voter;

(ii) A vote cast by a person disqualified under Article VI, section 3 of the state Constitution.

(b) Illegal votes do not include votes cast by improperly registered voters who were not properly challenged under RCW 29A.08.810 and 29A.08.820.

All election contests must proceed under RCW 29A.68.011 or section 2 of this act.

Sec. 4. RCW 29A.68.030 and 2007 c 374 s 5 are each amended to read as follows:

An affidavit of an elector filed pursuant to ((~~RCW 29A.68.011(6)~~)) section 2(3) of this act must set forth specifically:

(1) The name of the contestant and that he or she is a registered voter in the county, district or precinct, as the case may be, in which the office or measure is to be exercised;

(2) The name of the person whose right is being contested or the name of the measure being contested;

(3) The office;

(4) The particular causes of the contest.

No statement of contest may be dismissed for want of form if the particular causes of contest are alleged with sufficient certainty. The person charged with the error or omission must be given the opportunity to call any witness, including the candidate.

Sec. 5. RCW 29A.68.050 and 2003 c 111 s 1705 are each amended to read as follows:

The clerk shall issue subpoenas for witnesses in such contested election at the request of either party, which shall be served by the sheriff or constable, as other subpoenas, and the superior court shall have full power to issue attachments to compel the attendance of witnesses who shall have been duly subpoenaed to attend if they fail to do so.

The court shall meet at the time and place designated to determine such contested election by the rules of law and evidence governing the determination of questions of law and fact, so far as the same may be applicable, and may dismiss the proceedings if the statement of the cause or causes of contest is insufficient, or for want of prosecution. After hearing the proofs and allegations of the parties, the court shall pronounce judgment in the premises, either confirming or annulling and setting aside such election, according to the law and right of the case.

If in any such case it shall appear that another person than the one returned has the highest number of legal votes, said court shall declare such person duly elected. If in any such case it shall appear that the results of a measure are reversed, said court shall declare the change in result.

Sec. 6. RCW 29A.68.070 and 2011 c 10 s 65 are each amended to read as follows:

No irregularity or improper conduct in the proceedings of any county canvassing board or any member of the board amounts to such malconduct as to annul or set aside any election unless the irregularity or improper conduct was such as to either, reverse the outcome of an election measure or procure the person whose right to the office may be contested, to be declared duly elected although the person did not receive the highest number of legal votes.

Sec. 7. RCW 29A.68.080 and 2011 c 10 s 66 are each amended to read as follows:

When any election for an office exercised in and for a county is contested on account of any malconduct on the part of a county canvassing board, or any member thereof, the election shall not be annulled and set aside upon any proof thereof, unless the rejection of the vote of such precinct or precincts will change the result as to such office or measure in the remaining vote of the county.

Sec. 8. RCW 29A.68.090 and 2003 c 111 s 1709 are each amended to read as follows:

When the reception of illegal votes is alleged as a cause of contest, it is sufficient to state generally that illegal votes were cast, that, if given to the person whose election is contested, or to the winning choice for a measure, in the specified precinct or precincts, will, if taken from that person, or winning choice for a measure, reduce the number of the person's legal votes below the number of legal votes given to some other person for the same office or reverse the outcome of the measure.

Sec. 9. RCW 29A.68.110 and 2003 c 111 s 1711 are each amended to read as follows:

(1) No election for an office may be set aside on account of illegal votes, unless it appears that an amount of illegal votes has been given to the person whose right is being contested, that, if taken from that person, would reduce the number of the person's legal votes below the number of votes given to some other person for the same office, after deducting therefrom the illegal votes that may be shown to have been given to the other person.

(2) No election for a measure may be set aside on account of illegal votes, unless it appears that an amount of illegal votes has been given to the winning choice being contested, that, if taken from that winning choice, would reduce the number of legal votes for the winning choice below the number of votes given to the other choice, after deducting therefrom the illegal votes that may be shown to have been given to the other choice.

Sec. 10. RCW 29A.68.120 and 2007 c 374 s 6 are each amended to read as follows:

If an election is set aside by the judgment of the superior court and if no appeal is taken therefrom within ten days, the election of the person challenged or the outcome of the measure challenged, shall be thereby rendered void.

Passed by the House February 17, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
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CHAPTER 131

[Substitute House Bill 2678]

NURSING HOMES--PAYMENT METHODOLOGY

AN ACT Relating to nursing home facilities; amending RCW 74.46.561, 74.42.360, 74.46.020, 74.46.501, 74.46.835, and 74.46.581; reenacting and amending RCW 74.42.010; repealing RCW 74.46.803, 74.46.807, 74.46.437, and 74.46.439; and prescribing penalties.

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

Sec. 1. RCW 74.46.561 and 2015 2nd sp.s. c 2 s 4 are each amended 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 or greater of ((~~facility-wide~~)) statewide 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~~)) using county wide wage index information available through the United States department of labor's bureau of labor statistics. There is no minimum occupancy for direct care. The direct care component rate allocations calculated in accordance with this section must be adjusted to the extent necessary to comply with RCW 74.46.421.

(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 or greater of ((~~facility wide~~)) statewide median costs. ((~~Indirect care must be regionally adjusted for nonmetropolitan and metropolitan statistical areas.~~)) The indirect care component rate allocations calculated in accordance with this section must be adjusted to the extent necessary to comply with RCW 74.46.421.

(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.

(a) Beginning July 1, 2016, the fair rental rate allocation for each facility must be determined by multiplying the allowable nursing home square footage in (c) of this subsection by the RS means rental rate in (d) of this subsection and by the number of licensed beds yielding the gross unadjusted building value. An equipment allowance of ten percent must be added to the unadjusted building value. The sum of the unadjusted building value and equipment allowance must then be reduced by the average age of the facility as determined by (e) of this subsection using a depreciation rate of one and one-half percent. The depreciated building and equipment plus land valued at ten percent of the gross unadjusted building value before depreciation must then be multiplied by the rental rate at seven and one-half percent to yield an allowable fair rental value for the land, building, and equipment.

(b) The fair rental value determined in (a) of this subsection must be divided by the greater of the actual total facility census from the prior full calendar year or imputed census based on the number of licensed beds at ninety percent occupancy.

(c) For the rate year beginning July 1, 2016, all facilities must be reimbursed using four hundred square feet. For the rate year beginning July 1, 2017, allowable nursing facility square footage must be determined using the total nursing facility square footage as reported on the medicaid cost reports submitted to the department in compliance with this chapter. The maximum allowable square feet per bed may not exceed four hundred fifty.

(d) Each facility must be paid at eighty-three percent or greater of the median nursing facility RS means construction index value per square foot for Washington state. The department may use updated RS means construction index information when more recent square footage data becomes available. The statewide value per square foot must be indexed based on facility zip code by multiplying the statewide value per square foot times the appropriate zip code based index. For the purpose of implementing this section, the value per square foot effective July 1, 2016, must be set so that the weighted average FRV rate is not less than ten dollars and eighty cents ppd. The capital component rate allocations calculated in accordance with this section must be adjusted to the extent necessary to comply with RCW 74.46.421.

(e) The average age is the actual facility age reduced for significant renovations. Significant renovations are defined as those renovations that exceed two thousand dollars per bed in a calendar year as reported on the annual cost report submitted in accordance with this chapter. For the rate beginning July 1, 2016, the department shall use renovation data back to 1994 as submitted on facility cost reports. Beginning July 1, 2016, facility ages must be reduced in future years if the value of the renovation completed in any year exceeds two thousand dollars times the number of licensed beds. The cost of the renovation must be divided by the accumulated depreciation per bed in the year of the renovation to determine the equivalent number of new replacement beds. The new age for the facility is a weighted average with the replacement bed equivalents reflecting an age of zero and the existing licensed beds, minus the new bed equivalents, reflecting their age in the year of the renovation. At no time may the depreciated age be less than zero or greater than forty-four years.

(f) A nursing facility's capital component rate allocation must be rebased annually, effective July 1, 2016, in accordance with this section and this chapter.

(6) A quality incentive must be offered as a rate enhancement beginning July 1, 2016.

(a) An enhancement no larger than five percent and no less than one 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 payment. ((~~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, chapter 2, Laws of 2015 2nd sp. sess. 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.~~))

(b) The quality incentive component must be determined by calculating an overall facility quality score composed of four to six quality measures. For fiscal year 2017 there shall be four quality measures, and for fiscal year 2018 there shall be six quality measures. Initially, the quality incentive component must be based on minimum data set quality measures for the percentage of long-stay residents who self-report moderate to severe pain, the percentage of high-risk long-stay residents with pressure ulcers, the percentage of long-stay residents experiencing one or more falls with major injury, and the percentage of long-stay residents with a urinary tract infection. Quality measures must be reviewed

on an annual basis by a stakeholder work group established by the department. Upon review, quality measures may be added or changed. The department may risk adjust individual quality measures as it deems appropriate.

(c) The facility quality score must be point based, using at a minimum the facility's most recent available three-quarter average CMS quality data. Point thresholds for each quality measure must be established using the corresponding statistical values for the quality measure (QM) point determinants of eighty QM points, sixty QM points, forty QM points, and twenty QM points, identified in the most recent available five-star quality rating system technical user's guide published by the center for medicare and medicaid services.

(d) Facilities meeting or exceeding the highest performance threshold (Top level) for a quality measure receive twenty-five points. Facilities meeting the second highest performance threshold receive twenty points. Facilities meeting the third level of performance threshold receive fifteen points. Facilities in the bottom performance threshold level receive no points. Points from all quality measures must then be summed into a single aggregate quality score for each facility.

(e) Facilities receiving an aggregate quality score of eighty percent of the overall available total score or higher must be placed in the highest tier (Tier V), facilities receiving an aggregate score of between seventy and seventy-nine percent of the overall available total score must be placed in the second highest tier (Tier IV), facilities receiving an aggregate score of between sixty and sixty-nine percent of the overall available total score must be placed in the third highest tier (Tier III), facilities receiving an aggregate score of between fifty and fifty-nine percent of the overall available total score must be placed in the fourth highest tier (Tier II), and facilities receiving less than fifty percent of the overall available total score must be placed in the lowest tier (Tier I).

(f) The tier system must be used to determine the amount of each facility's per patient day quality incentive component. The per patient day quality incentive component for Tier IV is seventy-five percent of the per patient day quality incentive component for Tier V, the per patient day quality incentive component for Tier III is fifty percent of the per patient day quality incentive component for Tier V, and the per patient day quality incentive component for Tier II is twenty-five percent of the per patient day quality incentive component for Tier V. Facilities in Tier I receive no quality incentive component.

(g) Tier system payments must be set in a manner that ensures that the entire biennial appropriation for the quality incentive program is allocated.

(h) Facilities with insufficient three-quarter average CMS quality data must be assigned to the tier corresponding to their five-star quality rating. Facilities with a five-star quality rating must be assigned to the highest tier (Tier V) and facilities with a one-star quality rating must be assigned to the lowest tier (Tier I). The use of a facility's five-star quality rating shall only occur in the case of insufficient CMS minimum data set information.

(i) The quality incentive rates must be adjusted semiannually on July 1 and January 1 of each year using, at a minimum, the most recent available three-quarter average CMS quality data.

(j) Beginning July 1, 2017, the percentage of short-stay residents who newly received an antipsychotic medication must be added as a quality measure. The department must determine the quality incentive thresholds for this quality

measure in a manner consistent with those outlined in (b) through (h) of this subsection using the centers for medicare and medicaid services quality data.

(k) Beginning July 1, 2017, the percentage of direct care staff turnover must be added as a quality measure using the centers for medicare and medicaid services' payroll-based journal and nursing home facility payroll data. Turnover is defined as an employee departure. The department must determine the quality incentive thresholds for this quality measure using data from the centers for medicare and medicaid services' payroll-based journal, unless such data is not available, in which case the department shall use direct care staffing turnover data from the most recent medicaid cost report.

(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.

Sec. 2. RCW 74.42.360 and 2015 2nd sp.s. c 2 s 7 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~~)) staff has the same meaning as defined in RCW 74.42.010. 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 the center for medicare and medicaid service's payroll based journal and 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. No monetary penalty may be issued during the implementation period of July 1, 2016, through September 30, 2016. If a facility is found noncompliant during the implementation period, the department shall provide a written notice identifying the staffing deficiency and require the facility to provide a sufficiently detailed correction plan to meet the statutory minimum staffing levels. Monetary penalties begin October 1, 2016. Monetary penalties must be established based on a formula that calculates the cost of wages and benefits for the missing staff hours. If a facility meets the requirements in subsection (3) or (4) of this section, the penalty amount must be based solely on the wages and benefits of certified nurse aides. The first monetary penalty for noncompliance must be at a lower amount than subsequent findings of noncompliance. Monetary penalties established by the department may not exceed two hundred percent of the wage and benefit costs that would have otherwise been expended to achieve the required staffing minimum HPRD for the quarter. A facility found out of compliance must be assessed a monetary penalty at the lowest penalty level if the facility has met or exceeded the requirements in subsection (2) of this section for three or more consecutive years. 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 RCW 74.46.561.

(c) The department shall establish in rule an exception allowing geriatric behavioral health workers as defined in RCW 74.42.010 to be recognized in the minimum staffing requirements as part of the direct care service delivery to individuals suffering from mental illness. In order to qualify for the exception:

(i) The worker must have at least three years experience providing care for individuals with chronic mental health issues, dementia, or intellectual and developmental disabilities in a long-term care or behavioral health care setting;

(ii) The worker must have advanced practice knowledge in aging, disability, mental illness, Alzheimer's disease, and developmental disabilities; and

(iii) Any geriatric behavioral health worker holding less than a master's degree in social work must be directly supervised by an employee who has a master's degree in social work or a registered nurse.

(d)(i) The department shall establish a limited exception to the 3.4 HPRD staffing requirement for facilities demonstrating a good faith effort to hire and retain staff.

(ii) To determine initial facility eligibility for exception consideration, the department shall send surveys to facilities anticipated to be below, at, or slightly

above the 3.4 HPRD requirement. These surveys must measure the HPRD in a manner as similar as possible to the centers for medicare and medicaid services' payroll-based journal and cover the staffing of a facility from October through December of 2015, January through March of 2016, and April through June of 2016. A facility must be below the 3.4 staffing standard on all three surveys to be eligible for exception consideration. If the staffing HPRD for a facility declines from any quarter to another during the survey period, the facility must provide sufficient information to the department to allow the department to determine if the staffing decrease was deliberate or a result of neglect, which is the lack of evidence demonstrating the facility's efforts to maintain or improve its staffing ratio. The burden of proof is on the facility and the determination of whether or not the decrease was deliberate or due to neglect is entirely at the discretion of the department. If the department determines a facility's decline was deliberate or due to neglect, that facility is not eligible for an exception consideration.

(iii) To determine eligibility for exception approval, the department shall review the plan of correction submitted by the facility. Before a facility's exception may be renewed, the department must determine that sufficient progress is being made towards reaching the 3.4 HPRD staffing requirement. When reviewing whether to grant or renew an exception, the department must consider factors including but not limited to: Financial incentives offered by the facilities such as recruitment bonuses and other incentives; the robustness of the recruitment process; county employment data; specific steps the facility has undertaken to improve retention; improvements in the staffing ratio compared to the baseline established in the surveys and whether this trend is continuing; and compliance with the process of submitting staffing data, adherence to the plan of correction, and any progress toward meeting this plan, as determined by the department.

(iv) Only facilities that have their direct care component rate increase capped according to RCW 74.46.561 are eligible for exception consideration. Facilities that will have their direct care component rate increase capped for one or two years are eligible for exception consideration through June 30, 2017. Facilities that will have their direct care component rate increase capped for three years are eligible for exception consideration through June 30, 2018.

(v) The department may not grant or renew a facility's exception if the facility meets the 3.4 HPRD staffing requirement and subsequently drops below the 3.4 HPRD staffing requirement.

(vi) The department may grant exceptions for a six-month period per exception. The department's authority to grant exceptions to the 3.4 HPRD staffing requirement expires June 30, 2018.

(3)(a) Large nonessential community providers must have a registered nurse on duty directly supervising resident care twenty-four hours per day, seven days per week.

(b) The department shall establish a limited exception process to facilities that can demonstrate a good faith effort to hire a registered nurse for the last eight hours of required coverage per day. In granting an exception, the department may consider wages and benefits offered and the availability of registered nurses in the particular geographic area. A one-year exception may be granted and may be renewable for up to three consecutive years; however, the

department may limit the admission of new residents, based on medical conditions or complexities, when a registered nurse is not on-site and readily available. If a facility receives an exemption, that information must be included in the department's nursing home locator. After June 30, 2019, the department, along with a stakeholder work group established by the department, shall conduct a review of the exceptions process to determine if it is still necessary.

(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.

Sec. 3. RCW 74.42.010 and 2011 c 228 s 2 and 2011 c 89 s 19 are each reenacted and amended to read as follows:

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

(1) "Department" means the department of social and health services and the department's employees.

(2) "Facility" refers to a nursing home as defined in RCW 18.51.010.

(3) "Licensed practical nurse" means a person licensed to practice practical nursing under chapter 18.79 RCW.

(4) "Medicaid" means Title XIX of the Social Security Act enacted by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79 Stat. 343), as amended.

(5) "Nurse practitioner" means a person licensed to practice advanced registered nursing under chapter 18.79 RCW.

(6) "Nursing care" means that care provided by a registered nurse, an advanced registered nurse practitioner, a licensed practical nurse, or a nursing assistant in the regular performance of their duties.

(7) "Physician" means a person practicing pursuant to chapter 18.57 or 18.71 RCW, including, but not limited to, a physician employed by the facility as provided in chapter 18.51 RCW.

(8) "Physician assistant" means a person practicing pursuant to chapter 18.57A or 18.71A RCW.

(9) "Qualified therapist" means:

(a) An activities specialist who has specialized education, training, or experience specified by the department.

(b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience.

(c) A mental health professional as defined in chapter 71.05 RCW.

(d) An intellectual disabilities professional who is a qualified therapist or a therapist approved by the department and has specialized training or one year experience in treating or working with persons with intellectual or developmental disabilities.

(e) An occupational therapist who is a graduate of a program in occupational therapy or who has equivalent education or training.

(f) A physical therapist as defined in chapter 18.74 RCW.

(g) A social worker as defined in RCW 18.320.010(2).

(h) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has equivalent education and clinical experience.

(10) "Registered nurse" means a person licensed to practice registered nursing under chapter 18.79 RCW.

(11) "Resident" means an individual residing in a nursing home, as defined in RCW 18.51.010.

(12) "Direct care staff" means the staffing domain identified and defined in the center for medicare and medicaid service's five-star quality rating system and as reported through the center for medicare and medicaid service's payroll-based journal.

(13) "Geriatric behavioral health worker" means a person with a bachelor's or master's degree in social work who has received specialized training devoted to mental illness and treatment of older adults.

(14) "Licensed practical nurse" means a person licensed to practice practical nursing under chapter 18.79 RCW.

Sec. 4. RCW 74.46.020 and 2010 1st sp.s. c 34 s 2 are each amended to read as follows:

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

(1) "Appraisal" means the process of estimating the fair market value or reconstructing the historical cost of an asset acquired in a past period as performed by a professionally designated real estate appraiser with no pecuniary interest in the property to be appraised. It includes a systematic, analytic determination and the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

(2) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who are not related organizations and have adverse positions in the market place. Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter. Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

(3) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles.

(4) "Audit" or "department audit" means an examination of the records of a nursing facility participating in the medicaid payment system, including but not limited to: The contractor's financial and statistical records, cost reports and all supporting documentation and schedules, receivables, and resident trust funds, to be performed as deemed necessary by the department and according to department rule.

(5) "Capitalization" means the recording of an expenditure as an asset.

(6) "Case mix" means a measure of the intensity of care and services needed by the residents of a nursing facility or a group of residents in the facility.

(7) "Case mix index" means a number representing the average case mix of a nursing facility.

(8) "Case mix weight" means a numeric score that identifies the relative resources used by a particular group of a nursing facility's residents.

(9) ((~~"Certificate of capital authorization" means a certification from the department for an allocation from the biennial capital financing authorization for all new or replacement building construction, or for major renovation projects, receiving a certificate of need or a certificate of need exemption under chapter 70.38 RCW after July 1, 2001.~~

~~(10)~~)) "Contractor" means a person or entity licensed under chapter 18.51 RCW to operate a medicare and medicaid certified nursing facility, responsible for operational decisions, and contracting with the department to provide services to medicaid recipients residing in the facility.

(((~~(11)~~))) (10) "Default case" means no initial assessment has been completed for a resident and transmitted to the department by the cut-off date, or an assessment is otherwise past due for the resident, under state and federal requirements.

(((~~(12)~~))) (11) "Department" means the department of social and health services (DSHS) and its employees.

(((~~(13)~~))) (12) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.

(((~~(14)~~))) (13) "Direct care component" means nursing care and related care provided to nursing facility residents and includes the therapy care component, along with food, laundry, and dietary services of the previous system. ((~~Therapy care shall not be considered part of direct care.~~

~~(15)~~)) (14) "Direct care supplies" means medical, pharmaceutical, and other supplies required for the direct care of a nursing facility's residents.

(((~~(16)~~))) (15) "Entity" means an individual, partnership, corporation, limited liability company, or any other association of individuals capable of entering enforceable contracts.

(((~~(17)~~))) (16) "Equity" means the net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.

(((~~(18)~~))) (17) "Essential community provider" means a facility which is the only nursing facility within a commuting distance radius of at least forty minutes duration, traveling by automobile.

(((~~(19)~~))) (18) "Facility" or "nursing facility" means a nursing home licensed in accordance with chapter 18.51 RCW, excepting nursing homes certified as institutions for mental diseases, or that portion of a multiservice facility licensed as a nursing home, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

(((~~(20)~~))) (19) "Fair market value" means the replacement cost of an asset less observed physical depreciation on the date for which the market value is being determined.

(((~~(21)~~))) (20) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles including, but not limited to, balance sheet, statement of operations, statement of changes in financial position, and related notes.

(((~~(22)~~))) (21) "Generally accepted accounting principles" means accounting principles approved by the financial accounting standards board (FASB) or its successor.

(((~~(23)~~))) (22) "Grouper" means a computer software product that groups individual nursing facility residents into case mix classification groups based on specific resident assessment data and computer logic.

(((~~(24)~~))) (23) "High labor-cost county" means an urban county in which the median allowable facility cost per case mix unit is more than ten percent higher than the median allowable facility cost per case mix unit among all other urban counties, excluding that county.

(((~~(25)~~))) (24) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

(((~~(26)~~))) (25) "Home and central office costs" means costs that are incurred in the support and operation of a home and central office. Home and central office costs include centralized services that are performed in support of a nursing facility. The department may exclude from this definition costs that are nonduplicative, documented, ordinary, necessary, and related to the provision of care services to authorized patients.

(((~~(27)~~))) (26) "Large nonessential community providers" means nonessential community providers with more than sixty licensed beds, regardless of how many beds are set up or in use.

(((~~(28)~~))) (27) "Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination (due to any cause other than death or divorce) or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee, shall not be considered modification of a lease term.

(((~~(29)~~))) (28) "Medical care program" or "medicaid program" means medical assistance, including nursing care, provided under RCW 74.09.500 or authorized state medical care services.

(((~~(30)~~))) (29) "Medical care recipient," "medicaid recipient," or "recipient" means an individual determined eligible by the department for the services provided under chapter 74.09 RCW.

(((~~(31)~~))) (30) "Minimum data set" means the overall data component of the resident assessment instrument, indicating the strengths, needs, and preferences of an individual nursing facility resident.

(((~~(32)~~))) (31) "Net book value" means the historical cost of an asset less accumulated depreciation.

(((~~(33)~~))) (32) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles.

(((~~(34)~~))) (33) "Nonurban county" means a county which is not located in a metropolitan statistical area as determined and defined by the United States office of management and budget or other appropriate agency or office of the federal government.

(((~~(35)~~))) (34) "Owner" means a sole proprietor, general or limited partners, members of a limited liability company, and beneficial interest holders of five percent or more of a corporation's outstanding stock.

(((~~(36)~~))) (35) "Patient day" or "resident day" means a calendar day of care provided to a nursing facility resident, regardless of payment source, which will include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist. A "medicaid day" or "recipient day" means a calendar day of care provided to a medicaid recipient determined eligible by the department for services provided under chapter 74.09 RCW, subject to the same conditions regarding admission and discharge applicable to a patient day or resident day of care.

(((~~(37)~~))) (36) "Qualified therapist" means:

(a) A mental health professional as defined by chapter 71.05 RCW;

(b) An intellectual disabilities professional who is a therapist approved by the department who has had specialized training or one year's experience in treating or working with persons with intellectual or developmental disabilities;

(c) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has the equivalent education and clinical experience;

(d) A physical therapist as defined by chapter 18.74 RCW;

(e) An occupational therapist who is a graduate of a program in occupational therapy, or who has the equivalent of such education or training; and

(f) A respiratory care practitioner certified under chapter 18.89 RCW.

(((~~(38)~~))) (37) "Rate" or "rate allocation" means the medicaid per-patient-day payment amount for medicaid patients calculated in accordance with the allocation methodology set forth in part E of this chapter.

(((~~(39)~~))) (38) "Rebased rate" or "cost-rebased rate" means a facility-specific component rate assigned to a nursing facility for a particular rate period established on desk-reviewed, adjusted costs reported for that facility covering at least six months of a prior calendar year designated as a year to be used for cost-rebasing payment rate allocations under the provisions of this chapter.

(((~~(40)~~))) (39) "Records" means those data supporting all financial statements and cost reports including, but not limited to, all general and subsidiary ledgers, books of original entry, and transaction documentation, however such data are maintained.

(((~~(41)~~))) (40) "Resident assessment instrument," including federally approved modifications for use in this state, means a federally mandated, comprehensive nursing facility resident care planning and assessment tool, consisting of the minimum data set and resident assessment protocols.

(((~~(42)~~))) (41) "Resident assessment protocols" means those components of the resident assessment instrument that use the minimum data set to trigger or flag a resident's potential problems and risk areas.

(((~~(43)~~))) (42) "Resource utilization groups" means a case mix classification system that identifies relative resources needed to care for an individual nursing facility resident.

(((~~(44)~~))) (43) "Secretary" means the secretary of the department of social and health services.

(((~~(45)~~))) (44) "Small nonessential community providers" means nonessential community providers with sixty or fewer licensed beds, regardless of how many beds are set up or in use.

(((~~(46) "Support services" means food, food preparation, dietary, housekeeping, and laundry services provided to nursing facility residents.~~

~~(47)~~))) (45) "Therapy care" means those services required by a nursing facility resident's comprehensive assessment and plan of care, that are provided by qualified therapists, or support personnel under their supervision, including related costs as designated by the department.

(((~~(48)~~))) (46) "Title XIX" or "medicaid" means the 1965 amendments to the social security act, P.L. 89-07, as amended and the medicaid program administered by the department.

(((~~(49)~~))) (47) "Urban county" means a county which is located in a metropolitan statistical area as determined and defined by the United States office of management and budget or other appropriate agency or office of the federal government.

(48) "Capital component" means a fair market rental system that sets a price per nursing facility bed.

(49) "Indirect care component" means the elements of administrative expenses, maintenance costs, taxes, and housekeeping services from the previous system.

(50) "Quality enhancement component" means a rate enhancement offered to facilities that meet or exceed the standard established for the quality measures.

Sec. 5. RCW 74.46.501 and 2015 2nd sp.s. c 2 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~~)) 74.46.561, 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, 2015, through June 30, ((~~2017~~)) 2016, the department shall calculate rates using the medicaid average case mix scores effective for January 1, 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, ((~~2017~~)) 2016, direct care cost per case mix unit shall be calculated by utilizing ((~~2015~~)) 2014 direct care costs, patient days, and ((~~2015~~)) 2014 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~~)) 74.46.561.

(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.

Sec. 6. RCW 74.46.835 and 2010 1st sp.s. c 34 s 17 are each amended to read as follows:

(1) Payment for direct care at the pilot nursing facility in King county designed to meet the service needs of residents living with AIDS, as defined in RCW 70.24.017, and as specifically authorized for this purpose under chapter 9, Laws of 1989 1st ex. sess., shall be exempt from case mix methods of rate determination set forth in this chapter and shall be exempt from the direct care ((~~metropolitan statistical area peer group cost limitation~~)) wage index adjustment set forth in this chapter.

(2) Direct care component rates at the AIDS pilot facility shall be based on direct care reported costs at the pilot facility, utilizing the same rate-setting cycle

prescribed for other nursing facilities, and as supported by a staffing benchmark based upon a department-approved acuity measurement system.

(3) The provisions of RCW 74.46.421 and all other rate-setting principles, cost lids, and limits, including settlement as provided in rule shall apply to the AIDS pilot facility.

(4) This section applies only to the AIDS pilot nursing facility.

Sec. 7. RCW 74.46.581 and 2015 2nd sp.s. c 2 s 8 are each amended 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 net receipts from the reconciliation and settlement process provided in RCW 74.46.022(6), as described within RCW 74.46.561, 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 RCW 74.46.561, or as necessary for the reconciliation and settlement process, which requires deposits and withdrawals to complete both the preliminary and final settlement net receipt amounts for this account.

NEW SECTION. **Sec. 8.** The following acts or parts of acts are each repealed:

(1) RCW 74.46.803 (Certificate of capital authorization—Rules—Emergency situations) and 2008 c 255 s 1 & 2001 1st sp.s. c 8 s 16;

(2) RCW 74.46.807 (Capital authorization—Determination) and 2008 c 255 s 2 & 2001 1st sp.s. c 8 s 15;

(3) RCW 74.46.437 (Financing allowance component rate allocation) and 2011 1st sp.s. c 7 s 3, 2001 1st sp.s. c 8 s 8, & 1999 c 353 s 11; and

(4) RCW 74.46.439 (Facilities leased in arm's-length agreements—Financing allowance rate—Rate adjustment) and 2010 1st sp.s. c 34 s 7 & 1999 c 353 s 12.

Passed by the House February 11, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 132

[Second Substitute House Bill 2681]

CONTRACEPTIVES--AVAILABILITY IN PHARMACIES--AWARENESS

AN ACT Relating to authorizing pharmacists to prescribe and dispense contraceptives; and adding a new section to chapter 18.64 RCW.

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:

To increase awareness of the availability of contraceptives in pharmacies, the pharmacy quality assurance commission shall develop a sticker or sign to be displayed on the window or door of a pharmacy that initiates or modifies drug therapy related to self-administered contraception.

Passed by the House March 8, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 133

[House Bill 2768]

STAND-ALONE DENTAL PLANS--INDIVIDUAL AND SMALL GROUP MARKETS--TAXES AND SERVICE CHARGES

AN ACT Relating to taxes and service charges on certain qualified stand-alone dental plans offered in the individual or small group markets; and amending RCW 48.14.020, 48.14.0201, and 43.71.080.

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

Sec. 1. RCW 48.14.020 and 2013 2nd sp.s. c 6 s 6 are each amended to read as follows:

(1) Subject to other provisions of this chapter, each authorized insurer except title insurers shall on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax on premiums. Except as provided in subsection (3) of this section, such tax shall be in the amount of two percent of all premiums, excluding amounts returned to or the amount of reductions in premiums allowed to holders of industrial life policies for payment of premiums directly to an office of the insurer, collected or received by the insurer under RCW 48.14.090 during the preceding calendar year other than ocean marine and foreign trade insurances, after deducting premiums paid to policyholders as returned premiums, upon risks or property resident, situated, or to be performed in this state. For tax purposes, the reporting of premiums shall be on a written basis or on a paid-for basis consistent with the basis required by the annual statement. For the purposes of this section the consideration received by an insurer for the granting of an annuity shall not be deemed to be a premium.

(2)(a) The taxes imposed in this section do not apply to amounts received by any life and disability insurer for health care services included within the definition of practice of dentistry under RCW 18.32.020 except amounts received for pediatric oral services that qualify as coverage for the minimum essential coverage requirement under P.L. 111-148 (2010), as amended, and for stand-alone family dental plans as defined in RCW 43.71.080(4)(a), only when offered in the individual market, as defined in RCW 48.43.005(27), or to a small group, as defined in RCW 48.43.005(33).

(b) Beginning January 1, 2014, moneys collected for premiums written on qualified health benefit plans and ((~~stand-alone~~)) qualified dental plans offered through the health benefit exchange under chapter 43.71 RCW must be deposited in the health benefit exchange account under RCW 43.71.060.

(3) In the case of insurers which require the payment by their policyholders at the inception of their policies of the entire premium thereon in the form of

premiums or premium deposits which are the same in amount, based on the character of the risks, regardless of the length of term for which such policies are written, such tax shall be in the amount of two percent of the gross amount of such premiums and premium deposits upon policies on risks resident, located, or to be performed in this state, in force as of the thirty-first day of December next preceding, less the unused or unabsorbed portion of such premiums and premium deposits computed at the average rate thereof actually paid or credited to policyholders or applied in part payment of any renewal premiums or premium deposits on one-year policies expiring during such year.

(4) Each authorized insurer shall with respect to all ocean marine and foreign trade insurance contracts written within this state during the preceding calendar year, on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax of ninety-five one-hundredths of one percent on its gross underwriting profit. Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance) on such ocean marine and foreign trade insurance contracts the net losses paid (i.e., gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include, for computation of the tax prescribed by this subsection, the amounts refunded, or paid as participation dividends, by such insurers to the holders of such contracts.

(5) The state does hereby preempt the field of imposing excise or privilege taxes upon insurers or their appointed insurance producers, other than title insurers, and no county, city, town or other municipal subdivision shall have the right to impose any such taxes upon such insurers or these insurance producers.

(6) If an authorized insurer collects or receives any such premiums on account of policies in force in this state which were originally issued by another insurer and which other insurer is not authorized to transact insurance in this state on its own account, such collecting insurer shall be liable for and shall pay the tax on such premiums.

Sec. 2. RCW 48.14.0201 and 2013 2nd sp.s. c 6 s 5 are each amended to read as follows:

(1) As used in this section, "taxpayer" means a health maintenance organization as defined in RCW 48.46.020, a health care service contractor as defined in chapter 48.44 RCW, or a self-funded multiple employer welfare arrangement as defined in RCW 48.125.010.

(2) Each taxpayer must pay a tax on or before the first day of March of each year to the state treasurer through the insurance commissioner's office. The tax must be equal to the total amount of all premiums and prepayments for health care services collected or received by the taxpayer under RCW 48.14.090 during the preceding calendar year multiplied by the rate of two percent. For tax purposes, the reporting of premiums and prepayments must be on a written basis or on a paid-for basis consistent with the basis required by the annual statement.

(3) Taxpayers must prepay their tax obligations under this section. The minimum amount of the prepayments is the percentages of the taxpayer's tax obligation for the preceding calendar year recomputed using the rate in effect for the current year. For the prepayment of taxes due during the first calendar year, the minimum amount of the prepayments is the percentages of the taxpayer's tax

obligation that would have been due had the tax been in effect during the previous calendar year. The tax prepayments must be paid to the state treasurer through the commissioner's office by the due dates and in the following amounts:

(a) On or before June 15, forty-five percent;

(b) On or before September 15, twenty-five percent;

(c) On or before December 15, twenty-five percent.

(4) For good cause demonstrated in writing, the commissioner may approve an amount smaller than the preceding calendar year's tax obligation as recomputed for calculating the health maintenance organization's, health care service contractor's, self-funded multiple employer welfare arrangement's, or certified health plan's prepayment obligations for the current tax year.

(5)(a) Except as provided in (b) of this subsection, moneys collected under this section are deposited in the general fund.

(b) Beginning January 1, 2014, moneys collected from taxpayers for premiums written on qualified health benefit plans and ((~~stand-alone~~)) qualified dental plans offered through the health benefit exchange under chapter 43.71 RCW must be deposited in the health benefit exchange account under RCW 43.71.060.

(6) The taxes imposed in this section do not apply to:

(a) Amounts received by any taxpayer from the United States or any instrumentality thereof as prepayments for health care services provided under Title XVIII (medicare) of the federal social security act.

(b) Amounts received by any taxpayer from the state of Washington as prepayments for health care services provided under:

(i) The medical care services program as provided in RCW 74.09.035; or

(ii) The Washington basic health plan on behalf of subsidized enrollees as provided in chapter 70.47 RCW.

(c) Amounts received by any health care service contractor as defined in chapter 48.44 RCW, or any health maintenance organization as defined in chapter 48.46 RCW, as prepayments for health care services included within the definition of practice of dentistry under RCW 18.32.020, except amounts received for pediatric oral services that qualify as coverage for the minimum essential coverage requirement under P.L. 111-148 (2010), as amended, and for stand-alone family dental plans as defined in RCW 43.71.080(4)(a), only when offered in the individual market, as defined in RCW 48.43.005(27), or to a small group, as defined in RCW 48.43.005(33).

(d) Participant contributions to self-funded multiple employer welfare arrangements that are not taxable in this state.

(7) Beginning January 1, 2000, the state preempts the field of imposing excise or privilege taxes upon taxpayers and no county, city, town, or other municipal subdivision has the right to impose any such taxes upon such taxpayers. This subsection is limited to premiums and payments for health benefit plans offered by health care service contractors under chapter 48.44 RCW, health maintenance organizations under chapter 48.46 RCW, and self-funded multiple employer welfare arrangements as defined in RCW 48.125.010. The preemption authorized by this subsection must not impair the ability of a county, city, town, or other municipal subdivision to impose excise or privilege

taxes upon the health care services directly delivered by the employees of a health maintenance organization under chapter 48.46 RCW.

(8)(a) The taxes imposed by this section apply to a self-funded multiple employer welfare arrangement only in the event that they are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the commissioner must initially request an advisory opinion from the United States department of labor or obtain a declaratory ruling from a federal court on the legality of imposing state premium taxes on these arrangements. Once the legality of the taxes has been determined, the multiple employer welfare arrangement certified by the insurance commissioner must begin payment of these taxes.

(b) If there has not been a final determination of the legality of these taxes, then beginning on the earlier of (i) the date the fourth multiple employer welfare arrangement has been certified by the insurance commissioner, or (ii) April 1, 2006, the arrangement must deposit the taxes imposed by this section into an interest bearing escrow account maintained by the arrangement. Upon a final determination that the taxes are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., all funds in the interest bearing escrow account must be transferred to the state treasurer.

(9) The effect of transferring contracts for health care services from one taxpayer to another taxpayer is to transfer the tax prepayment obligation with respect to the contracts.

(10) On or before June 1st of each year, the commissioner must notify each taxpayer required to make prepayments in that year of the amount of each prepayment and must provide remittance forms to be used by the taxpayer. However, a taxpayer's responsibility to make prepayments is not affected by failure of the commissioner to send, or the taxpayer to receive, the notice or forms.

Sec. 3. RCW 43.71.080 and 2013 2nd sp.s. c 6 s 3 are each amended to read as follows:

(1)(a) Beginning January 1, 2015, the exchange may require each issuer writing premiums for qualified health benefit plans or stand-alone pediatric dental plans offered through the exchange to pay an assessment in an amount necessary to fund the operations of the exchange, applicable to operational costs incurred beginning January 1, 2015.

(b) The assessment is an exchange user fee as that term is used in 45 C.F.R. 156.80. Assessments of issuers may be made only if the amount of expected premium taxes, as provided under RCW 48.14.0201(5)(b) and 48.14.020(2), and other funds deposited in the health benefit exchange account in the current calendar year (excluding premium taxes on stand-alone family dental plans and the assessment received under subsection (3) of this section applicable to stand-alone family dental plans) are insufficient to fund exchange operations in the following calendar year at the level authorized by the legislature for that purpose in the omnibus appropriations act.

(c) If the exchange is charging an assessment, the exchange shall display the amount of the assessment per member per month for enrollees. A health benefit plan or stand-alone dental plan may identify the amount of the assessment to enrollees, but must not bill the enrollee for the amount of the assessment separately from the premium.

(2) The board, in collaboration with the issuers, the health care authority, and the commissioner, must establish a fair and transparent process for calculating the assessment amount. The process must meet the following requirements:

(a) The assessment only applies to issuers that offer coverage in the exchange and only for those market segments offered and must be based on the number of enrollees in qualified health plans and stand-alone dental plans in the exchange for a calendar year;

(b) The assessment must be established on a flat dollar and cents amount per member per month, and the assessment for stand-alone pediatric dental plans must be proportional to the premiums paid for stand-alone dental plans in the exchange;

(c) Issuers must be notified of the assessment amount by the exchange on a timely basis;

(d) An appropriate assessment reconciliation process must be established by the exchange that is administratively efficient;

(e) Issuers must remit the assessment due to the exchange in quarterly installments after receiving notification from the exchange of the due dates of the quarterly installments;

(f) A procedure must be established to allow issuers subject to assessments under this section to have grievances reviewed by an impartial body and reported to the board; and

(g) A procedure for enforcement must be established if an issuer fails to remit its assessment amount to the exchange within ten business days of the quarterly installment due date.

(3)(a) Beginning January 1, 2017, the exchange may require each issuer writing premiums for stand-alone family dental plans offered through the exchange to pay an assessment in an amount necessary to fund the operational costs of offering family dental plans in the exchange, applicable to operational costs incurred beginning January 1, 2017.

(b) The assessment is an exchange user fee as that term is used in 45 C.F.R. Sec. 156.80. Assessments of issuers may be made only if the amount of expected premium tax received from stand-alone family dental plans, as provided under RCW 48.14.0201(5)(b) and 48.14.020(2), in the current year is insufficient to fund the operational costs estimated to be attributable to offering such stand-alone family dental plans in the exchange, including an allocation of costs to proportionately cover overall exchange operational costs, in the following calendar year, plus three months of additional operating costs.

(c) If the exchange is charging an assessment, the exchange shall display the amount of the assessment per member per month for enrollees. A stand-alone family dental plan may identify the amount of the assessment to enrollees, but must not bill the enrollee for the amount of the assessment separately from the premium.

(d) The board, in collaboration with the family dental issuers and the commissioner, must establish a fair and transparent process for calculating the assessment amount, including the allocation of overall exchange operational costs. The process must meet the following requirements:

(i) The assessment only applies to issuers that offer stand-alone family dental plans in the exchange and must be based on the number of enrollees in such plans in the exchange for a calendar year;

(ii) The assessment must be established on a flat dollar and cents amount per member per month;

(iii) The requirements included in subsection (2)(c) through (g) of this section shall apply to the assessment described in this subsection (3).

(e) The board, in collaboration with issuers, shall annually assess the viability of offering stand-alone family dental plans on the exchange.

(4) For purposes of this section:

(a) "Stand-alone family dental plan" means coverage for limited scope dental benefits meeting the requirements of section 9832(c)(2)(A) of the internal revenue code of 1986 and providing pediatric oral services that qualify as coverage for the minimum essential coverage requirement under P.L. 111-148 (2010), as amended.

(b) "Stand-alone pediatric dental plan" means coverage only for pediatric oral services that qualify as coverage for the minimum essential coverage requirement under P.L. 111-148 (2010), as amended.

(5) The exchange shall deposit proceeds from the assessments in the health benefit exchange account under RCW 43.71.060.

((~~(4)~~)) (6) The assessment described in this section shall be considered a special purpose obligation or assessment in connection with coverage described in this section for the purpose of funding the operations of the exchange, and may not be applied by issuers to vary premium rates at the plan level.

((~~(5)~~)) (7) This section does not prohibit an enrollee of a qualified health plan in the exchange from purchasing a plan that offers dental benefits outside the exchange.

(8) This section does not prohibit an issuer from offering a plan that covers dental benefits that do not meet the requirements of a stand-alone family dental plan outside the exchange.

(9) The exchange shall monitor enrollment and provide periodic reports which must be available on its web site.

((~~(6)~~)) (10) The board shall offer all qualified health plans through the exchange, and the exchange shall not add criteria for certification of qualified health plans beyond those set out in RCW 43.71.065 without specific statutory direction. Nothing shall be construed to limit duties, obligations, and authority otherwise legislatively delegated or granted to the exchange.

((~~(7)~~)) (11) The exchange shall report to the joint select committee on health care oversight on a quarterly basis with an update on budget expenses and operations.

((~~(8)~~)) (12) By July 1, 2016, the state auditor shall conduct a performance review of the cost of exchange operations and shall make recommendations to the board and the health care committees of the legislature addressing improvements in cost performance and adoption of best practices. The auditor shall further evaluate the potential cost and customer service benefits through regionalization with other states of some exchange operation functions or through a partnership with the federal government. The cost of the state auditor review must be borne by the exchange.

Passed by the House February 16, 2016.

Passed by the Senate March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 134

[Engrossed Substitute House Bill 2852]

ELECTION DATA AND REPORTING--STANDARDS DEVELOPMENT

AN ACT Relating to establishing standards for election data and reporting; amending RCW 29A.60.160; and adding new sections to chapter 29A.60 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 29A.60 RCW to read as follows:

(1) The secretary of state must develop statewide election data and reporting standards for how election-related data is maintained and reported by each county auditor. The secretary may make reasonable rules as necessary to develop statewide standards.

(2) The statewide standards should focus on the goals of improving:

(a) The types of data files and procedures used to collect and maintain election information;

(b) The public's access to election data collected, reported, and made available by each county auditor including, but not limited to:

(i) Records of voters who were issued a ballot and voters who voted in an election, pursuant to RCW 29A.40.130;

(ii) Tabulation results made available pursuant to RCW 29A.60.160; and

(iii) Information collected and reported in the county election reconciliation report, pursuant to RCW 29A.60.235; and

(c) The efficient compilation of data from all counties for research and analysis of election practices and trends at a statewide level.

(3) The secretary of state may convene a work group, including county auditors and other interested stakeholders to evaluate how county election data is collected and maintained and to develop and recommend ways for improving election data reporting.

(4) The statewide standards must be made public with ongoing analysis on whether counties are in compliance with current standards.

Sec. 2. RCW 29A.60.160 and 2013 c 11 s 62 are each amended to read as follows:

(1) The county auditor, as delegated by the county canvassing board, shall process ballots and canvass the votes cast at that primary or election on a daily basis in counties with a population of seventy-five thousand or more, or at least every third day for counties with a population of less than seventy-five thousand, if the county auditor is in possession of more than five hundred ballots that have yet to be canvassed.

(2) Saturdays, Sundays, and legal holidays are not counted for purposes of this section.

(3) In order to protect the secrecy of a ballot, the county auditor may use discretion to decide when to process ballots and canvass the votes.

(4) Tabulation results must be made available to the public immediately upon completion of the canvass. Records of ballots counted must be made available to the public at the end of each day that the county auditor has processed ballots during and after an election.

NEW SECTION. **Sec. 3.** A new section is added to chapter 29A.60 RCW to read as follows:

Every odd-numbered year, the secretary of state must conduct and publish a statewide survey of voted ballot rejection rates and the reasons for those rejections by county auditors and canvassing boards. The secretary of state must collect data from reconciliation reports and county auditors in order to compare county and statewide averages for rates of rejected ballots and reasons for those ballots being rejected. The data collected must include rejection rates and reasons for rejection of voted ballots for all elections. The survey must include an analysis of current practices by county auditors and canvassing boards in the acceptance and rejection of ballots, and include recommendations for improvements that minimize rejections in those practices, with a goal of statewide standardization where applicable. The results must also be analyzed and compared with available national data and recognized best practices. The secretary of state's recommendations and reports must be made available to the public.

Passed by the House February 12, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 135

[Substitute House Bill 2859]
CREDIT REPORT SECURITY FREEZES

AN ACT Relating to credit report security freezes; adding new sections to chapter 19.182 RCW; adding a new section to chapter 70.58 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 19.182 RCW to read as follows:

The definitions in this section apply throughout this section and sections 2 and 3 of this act unless the context clearly requires otherwise.

(1) "Credit report" means a consumer report, as defined in 15 U.S.C. Sec. 1681a, that is used or collected to serve as a factor in establishing a consumer's eligibility for credit for personal, family, or household purposes.

(2) "Normal business hours" means Sunday through Saturday, between the hours of 6:00 a.m. and 9:30 p.m. Pacific time.

(3) "Protected consumer" means an individual who is:

(a) Under the age of sixteen years old at the time a request for the placement of a security freeze is made pursuant to section 2 of this act; or

(b) Incapacitated and for whom a guardian or limited guardian has been appointed.

(4) "Record" means a compilation of information that:

(a) Identifies a protected consumer;

(b) Is created by a consumer reporting agency solely for the purpose of complying with section 2 of this act; and

(c) May not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living for any purpose listed in RCW 19.182.020.

(5) "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

(6) "Security freeze" means:

(a) If a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction that:

(i) Is placed on the protected consumer's record in accordance with section 2 of this act; and

(ii) Prohibits the consumer reporting agency from releasing the protected consumer's record except as provided in section 2 of this act; or

(b) If a consumer reporting agency has a file pertaining to the protected consumer, a restriction that:

(i) Is placed on the protected consumer's consumer report in accordance with section 2 of this act; and

(ii) Prohibits the consumer reporting agency from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report except as provided in section 2 of this act.

(7) "Sufficient proof of authority" means documentation that shows a representative has authority to act on behalf of a protected consumer, including:

(a) An order issued by a court of law;

(b) A lawfully executed and valid power of attorney; and

(c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

(8) "Sufficient proof of identification" means information or documentation that identifies a protected consumer or a representative of a protected consumer, including:

(a) A social security number or a copy of a social security card issued by the social security administration;

(b) A certified or official copy of a birth certificate issued by the entity authorized to issue the birth certificate;

(c) A copy of a driver's license, an identicard issued under RCW 46.20.117, or any other government-issued identification; or

(d) A copy of a bill, including a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and home address.

NEW SECTION. **Sec. 2.** A new section is added to chapter 19.182 RCW to read as follows:

(1) A consumer reporting agency shall place a security freeze for a protected consumer if:

(a) The consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze under this section; and

(b) The protected consumer's representative:

(i) Submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(ii) Provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative;

(iii) Provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer; and

(iv) Pays to the consumer reporting agency a fee as provided in this section.

(2) If a consumer reporting agency does not have a file pertaining to a protected consumer when the consumer reporting agency receives a request under subsection (1)(a) of this section, the consumer reporting agency shall create a record for the protected consumer.

(3) Within thirty days after receiving a request that meets the requirements of subsection (1) of this section, a consumer reporting agency shall place a security freeze for the protected consumer.

(4) Unless a security freeze for a protected consumer is removed in accordance with subsection (6) or (9) of this section, a consumer reporting agency may not release the protected consumer's consumer report, any information derived from the protected consumer's consumer report, or any record created for the protected consumer.

(5) A security freeze for a protected consumer placed in accordance with this section shall remain in effect until:

(a) The protected consumer or the protected consumer's representative requests the consumer reporting agency to remove the security freeze in accordance with subsection (6) of this section; or

(b) The security freeze is removed in accordance with subsection (9) of this section.

(6) If a protected consumer or a protected consumer's representative wishes to remove a security freeze for the protected consumer, the protected consumer or the protected consumer's representative shall:

(a) Submit a request for the removal of the security freeze to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(b) Provide to the consumer reporting agency:

(i) In the case of a request by the protected consumer:

(A) Proof that the sufficient proof of authority for the protected consumer's representative to act on behalf of the protected consumer is no longer valid; and

(B) Sufficient proof of identification of the protected consumer;

(ii) In the case of a request by the representative of a protected consumer:

(A) Sufficient proof of identification of the protected consumer and the representative; and

(B) Sufficient proof of authority to act on behalf of the protected consumer; and

(iii) In any case, pay to the consumer reporting agency a fee as provided in this section.

(7) Within thirty days after receiving a request that meets the requirements of subsection (6) of this section, the consumer reporting agency shall remove the security freeze for the protected consumer.

(8)(a) Except as provided in (b) of this subsection, a consumer reporting agency may not charge a fee for any service performed under this section.

(b) A consumer reporting agency may charge a reasonable fee, not exceeding ten dollars, for each placement or removal of a security freeze for a protected consumer.

(c) A consumer reporting agency may not charge any fee under this section if:

(i) The protected consumer's representative:

(A) Has obtained a report from a federal, state, county, or local law enforcement alleging identity theft in violation of RCW 9.35.020 against the protected consumer; and

(B) Provides a copy of the report to the consumer reporting agency; or

(ii)(A) A request for the placement or removal of a security freeze is for a protected consumer who is under the age of sixteen years at the time of the request; and

(B) The consumer reporting agency has a consumer report pertaining to the protected consumer.

(9) A consumer reporting agency may remove a security freeze for a protected consumer or delete a record of a protected consumer if the security freeze was placed or the record was created based on a material misrepresentation of fact by the protected consumer or the protected consumer's representative.

(10) A violation of this section is enforced in accordance with RCW 19.182.170(17).

(11) This section does not apply to:

(a) Persons or transactions described in RCW 19.182.170(14)(b), (c), (d), (e), (f), (h), or (i);

(b) Persons or transactions described in RCW 19.182.190;

(c) Persons or transactions described in RCW 19.182.200; or

(d) A person or entity that maintains, or a database used solely for, the following:

(i) Criminal record information;

(ii) Personal loss history information;

(iii) Fraud prevention or detection;

(iv) Employment screening; or

(v) Tenant screening.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70.58 RCW to read as follows:

The issuer of a certified birth certificate shall include information prepared by the department setting forth the advisability of a security freeze under section 2 of this act and the process for acquiring a security freeze.

NEW SECTION. **Sec. 4.** This act takes effect January 1, 2017.

Passed by the House February 17, 2016.

Passed by the Senate March 1, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.

CHAPTER 136

[Engrossed Substitute House Bill 2906]

JUVENILE OFFENDERS--REHABILITATION AND REINTEGRATION

AN ACT Relating to strengthening opportunities for the rehabilitation and reintegration of juvenile offenders; and amending RCW 13.40.010, 13.40.020, 13.40.127, 13.40.308, 10.99.030, 13.40.265, 9.41.040, 46.20.265, 66.44.365, 69.41.065, 69.50.420, and 69.52.070.

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

Sec. 1. RCW 13.40.010 and 2004 c 120 s 1 are each amended to read as follows:

(1) This chapter shall be known and cited as the Juvenile Justice Act of 1977.

(2) It is the intent of the legislature that a system capable of having primary responsibility for, being accountable for, and responding to the needs of youthful offenders and their victims, as defined by this chapter, be established. It is the further intent of the legislature that youth, in turn, be held accountable for their offenses and that communities, families, and the juvenile courts carry out their functions consistent with this intent. To effectuate these policies, the legislature declares the following to be equally important purposes of this chapter:

(a) Protect the citizenry from criminal behavior;

(b) Provide for determining whether accused juveniles have committed offenses as defined by this chapter;

(c) Make the juvenile offender accountable for his or her criminal behavior;

(d) Provide for punishment commensurate with the age, crime, and criminal history of the juvenile offender;

(e) Provide due process for juveniles alleged to have committed an offense;

(f) Provide for the rehabilitation and reintegration of juvenile offenders;

(g) Provide necessary treatment, supervision, and custody for juvenile offenders;

((~~(g)~~)) (h) Provide for the handling of juvenile offenders by communities whenever consistent with public safety;

((~~(h)~~)) (i) Provide for restitution to victims of crime;

((~~(i)~~)) (j) Develop effective standards and goals for the operation, funding, and evaluation of all components of the juvenile justice system and related services at the state and local levels;

((~~(j)~~)) (k) Provide for a clear policy to determine what types of offenders shall receive punishment, treatment, or both, and to determine the jurisdictional limitations of the courts, institutions, and community services;

((~~(k)~~)) (l) Provide opportunities for victim participation in juvenile justice process, including court hearings on juvenile offender matters, and ensure that Article I, section 35 of the Washington state Constitution, the victim bill of rights, is fully observed; and

((~~(l)~~)) (m) Encourage the parents, guardian, or custodian of the juvenile to actively participate in the juvenile justice process.

Sec. 2. RCW 13.40.020 and 2014 c 110 s 1 are each amended to read as follows:

For the purposes of this chapter:

(1) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and

extent of any mental health, substance abuse, or co-occurring mental health and substance abuse disorders, and recommendations for treatment. "Assessment" includes, but is not limited to, drug and alcohol evaluations, psychological and psychiatric evaluations, records review, clinical interview, and administration of a formal test or instrument;

(2) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services including, when appropriate, restorative justice programs; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(3) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(4) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(5) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(6) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(7) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(8) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(9) "Department" means the department of social and health services;

(10) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(11) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(12) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(13) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(14) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(15) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously

transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(16) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(17) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(18) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) $0-$500 fine;

(19) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(20) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(21) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(22) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(23) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(24) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

(25) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(26) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(27) "Restorative justice" means practices, policies, and programs informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members;

(28) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

(29) "Screening" means a process that is designed to identify a child who is at risk of having mental health, substance abuse, or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment. A screening may be undertaken with or without the administration of a formal instrument;

(30) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

(31) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(32) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(33) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

(34) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

(35) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

(36) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

(37) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

(38) "Youth court" means a diversion unit under the supervision of the juvenile court.

Sec. 3. RCW 13.40.127 and 2015 c 265 s 26 are each 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.~~)) In all cases where the juvenile is eligible for a deferred disposition, there shall be a strong presumption that the deferred disposition will be granted. 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 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 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 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. 4. RCW 13.40.308 and 2009 c 454 s 4 are each amended to read as follows:

(1) If a respondent is adjudicated of taking a motor vehicle without permission in the first degree as defined in RCW 9A.56.070, the court shall impose the following minimum sentence, in addition to any restitution the court may order payable to the victim:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes no less than three months of community supervision, forty-five hours of community restitution, ((~~a two hundred dollar fine,~~)) and a requirement that the juvenile remain at home such that the juvenile is confined to a private residence for no less than five days. The juvenile may be subject to electronic monitoring where available. If the juvenile is enrolled in school, the confinement shall be served on nonschool days;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to a standard range sentence that includes six months of community supervision, no less than ten days of detention, and ninety hours of community restitution((~~, and a four hundred dollar fine~~)); and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than fifteen to thirty-six weeks commitment to the juvenile rehabilitation administration, four months of parole supervision, and ninety hours of community restitution((~~, and a four hundred dollar fine~~)).

(2) If a respondent is adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065, or possession of a stolen vehicle as defined under RCW 9A.56.068, the court shall impose the following minimum sentence, in addition to any restitution the court may order payable to the victim:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes no less than three months of community supervision((~~, forty-five hours of community restitution, a~~

~~two hundred dollar fine,~~)) and either ninety hours of community restitution or a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than five days, or a combination thereof that includes a minimum of three days home confinement and a minimum of forty hours of community restitution. The juvenile may be subject to electronic monitoring where available;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to a standard range sentence that includes no less than six months of community supervision, no less than ten days of detention, and ninety hours of community restitution((~~, and a four hundred dollar fine~~)); and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than fifteen to thirty-six weeks commitment to the juvenile rehabilitation administration, four months of parole supervision, and ninety hours of community restitution((~~, and a four hundred dollar fine~~)).

(3) If a respondent is adjudicated of taking a motor vehicle without permission in the second degree as defined in RCW 9A.56.075, the court shall impose a standard range as follows:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes three months of community supervision, fifteen hours of community restitution, and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than one day. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring where available;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to a standard range sentence that includes no less than one day of detention, three months of community supervision, thirty hours of community restitution, ((~~a one hundred fifty dollar fine,~~)) and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than two days. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring where available; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than three days of detention, six months of community supervision, forty-five hours of community restitution, ((~~a one hundred fifty dollar fine,~~)) and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than seven days. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring where available.

Sec. 5. RCW 10.99.030 and 1996 c 248 s 6 are each amended to read as follows:

(1) All training relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) The criminal justice training commission shall implement by January 1, 1997, a course of instruction for the training of law enforcement officers in

Washington in the handling of domestic violence complaints. The basic law enforcement curriculum of the criminal justice training commission shall include at least twenty hours of basic training instruction on the law enforcement response to domestic violence. The course of instruction, the learning and performance objectives, and the standards for the training shall be developed by the commission and focus on enforcing the criminal laws, safety of the victim, and holding the perpetrator accountable for the violence. The curriculum shall include training on the extent and prevalence of domestic violence, the importance of criminal justice intervention, techniques for responding to incidents that minimize the likelihood of officer injury and that promote victim safety, investigation and interviewing skills, evidence gathering and report writing, assistance to and services for victims and children, verification and enforcement of court orders, liability, and any additional provisions that are necessary to carry out the intention of this subsection.

(3) The criminal justice training commission shall develop and update annually an in-service training program to familiarize law enforcement officers with the domestic violence laws. The program shall include techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of all parties. The commission shall make the training program available to all law enforcement agencies in the state.

(4) Development of the training in subsections (2) and (3) of this section shall be conducted in conjunction with agencies having a primary responsibility for serving victims of domestic violence with emergency shelter and other services, and representatives to the statewide organization providing training and education to these organizations and to the general public.

(5) The primary duty of peace officers, when responding to a domestic violence situation, is to enforce the laws allegedly violated and to protect the complaining party.

(6)(a) When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer shall exercise arrest powers with reference to the criteria in RCW 10.31.100. The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

(b) A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

(7) When a peace officer responds to a domestic violence call, the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement:

> "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in superior, district, or municipal court requesting an order for protection from domestic abuse which could include any of the following: (a) An order restraining your

abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available in any municipal, district, or superior court.

Information about shelters and alternatives to domestic violence is available from a statewide twenty-four-hour toll-free hot line at (include appropriate phone number). The battered women's shelter and other resources in your area are . . . . . (include local information)"

(8) The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(9) The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation. Upon receiving the offense report, the prosecuting agency may, in its discretion, choose not to file the information as a domestic violence offense, if the offense was committed against a sibling, parent, stepparent, or grandparent.

(10) Each law enforcement agency shall make as soon as practicable a written record and shall maintain records of all incidents of domestic violence reported to it.

(11) Records kept pursuant to subsections (6) and (10) of this section shall be made identifiable by means of a departmental code for domestic violence.

(12) Commencing January 1, 1994, records of incidents of domestic violence shall be submitted, in accordance with procedures described in this subsection, to the Washington association of sheriffs and police chiefs by all law enforcement agencies. The Washington criminal justice training commission shall amend its contract for collection of statewide crime data with the Washington association of sheriffs and police chiefs:

(a) To include a table, in the annual report of crime in Washington produced by the Washington association of sheriffs and police chiefs pursuant to the contract, showing the total number of actual offenses and the number and percent of the offenses that are domestic violence incidents for the following crimes: (i) Criminal homicide, with subtotals for murder and nonnegligent homicide and manslaughter by negligence; (ii) forcible rape, with subtotals for rape by force and attempted forcible rape; (iii) robbery, with subtotals for firearm, knife or cutting instrument, or other dangerous weapon, and strongarm robbery; (iv) assault, with subtotals for firearm, knife or cutting instrument, other dangerous weapon, hands, feet, aggravated, and other nonaggravated assaults; (v) burglary, with subtotals for forcible entry, nonforcible unlawful entry, and attempted forcible entry; (vi) larceny theft, except motor vehicle theft; (vii) motor vehicle theft, with subtotals for autos, trucks and buses, and other vehicles; (viii) arson; and (ix) violations of the provisions of a protection order or no-contact order restraining the person from going onto the grounds of or

entering a residence, workplace, school, or day care, provided that specific appropriations are subsequently made for the collection and compilation of data regarding violations of protection orders or no-contact orders;

(b) To require that the table shall continue to be prepared and contained in the annual report of crime in Washington until that time as comparable or more detailed information about domestic violence incidents is available through the Washington state incident based reporting system and the information is prepared and contained in the annual report of crime in Washington; and

(c) To require that, in consultation with interested persons, the Washington association of sheriffs and police chiefs prepare and disseminate procedures to all law enforcement agencies in the state as to how the agencies shall code and report domestic violence incidents to the Washington association of sheriffs and police chiefs.

Sec. 6. RCW 13.40.265 and 2003 c 53 s 101 are each amended to read as follows:

(1)(((~~(a)~~))) If a juvenile thirteen years of age or older is found by juvenile court to have committed an offense while armed with a firearm or an offense that is a violation of RCW 9.41.040(2)(a)(((~~(iii)~~))) (iv) or chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court shall notify the department of licensing within twenty-four hours after entry of the judgment, unless the offense is the juvenile's first offense while armed with a firearm, first unlawful possession of a firearm offense, or first offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.

(((~~(b)~~))) (2) Except as otherwise provided in (((~~(c) of this~~)) subsection (3) of this section, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court may at any time the court deems appropriate notify the department of licensing that the juvenile's driving privileges should be reinstated.

(((~~(c) If the offense is the juvenile's first violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered, whichever is later.~~)) (3) If the offense is the juvenile's second or subsequent violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the date the juvenile turns seventeen or one year after the date judgment was entered, whichever is later.

(((~~(2)(a) If a juvenile enters into a diversion agreement with a diversion unit pursuant to RCW 13.40.080 concerning an offense that is a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the diversion unit shall notify the department of licensing within twenty-four hours after the diversion agreement is signed.~~

~~(b) If a diversion unit has notified the department pursuant to (a) of this subsection, the diversion unit shall notify the department of licensing when the juvenile has completed the agreement.~~))

Sec. 7. RCW 9.41.040 and 2014 c 111 s 1 are each amended to read as follows:

(1)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, has in his or her possession, or has in his or her control any firearm after having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any serious offense as defined in this chapter.

(b) Unlawful possession of a firearm in the first degree is a class B felony punishable according to chapter 9A.20 RCW.

(2)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under subsection (1) of this section for the crime of unlawful possession of a firearm in the first degree and the person owns, has in his or her possession, or has in his or her control any firearm:

(i) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any felony not specifically listed as prohibiting firearm possession under subsection (1) of this section, or any of the following crimes when committed by one family or household member against another, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

(ii) During any period of time that the person is subject to a court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99, 26.09, 26.10, 26.26, or 26.50 RCW that:

(A) Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

(B) Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(I) Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; and

(II) By its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury;

(iii) After having previously been involuntarily committed for mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(iv) If the person is under eighteen years of age, except as provided in RCW 9.41.042; and/or

(v) If the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010.

(b) Unlawful possession of a firearm in the second degree is a class C felony punishable according to chapter 9A.20 RCW.

(3) Notwithstanding RCW 9.41.047 or any other provisions of law, as used in this chapter, a person has been "convicted", whether in an adult court or

adjudicated in a juvenile court, at such time as a plea of guilty has been accepted, or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing or disposition, post-trial or post-fact-finding motions, and appeals. Conviction includes a dismissal entered after a period of probation, suspension or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state. A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. Where no record of the court's disposition of the charges can be found, there shall be a rebuttable presumption that the person was not convicted of the charge.

(4)(a) Notwithstanding subsection (1) or (2) of this section, a person convicted or found not guilty by reason of insanity of an offense prohibiting the possession of a firearm under this section other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401 and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction or finding of not guilty by reason of insanity. Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) or (2) of this section and has not previously been convicted or found not guilty by reason of insanity of a sex offense prohibiting firearm ownership under subsection (1) or (2) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:

(i) Under RCW 9.41.047; and/or

(ii)(A) If the conviction or finding of not guilty by reason of insanity was for a felony offense, after five or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525; or

(B) If the conviction or finding of not guilty by reason of insanity was for a nonfelony offense, after three or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525 and the individual has completed all conditions of the sentence.

(b) An individual may petition a court of record to have his or her right to possess a firearm restored under (a) of this subsection (4) only at:

(i) The court of record that ordered the petitioner's prohibition on possession of a firearm; or

(ii) The superior court in the county in which the petitioner resides.

(5) In addition to any other penalty provided for by law, if a person under the age of eighteen years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) or (2) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within twenty-four hours and the person's privilege to drive shall be revoked under RCW 46.20.265, unless the offense is the juvenile's first offense in violation of this section and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.52, 69.41, or 69.50 RCW.

(6) Nothing in chapter 129, Laws of 1995 shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section 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, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense.

(8) For purposes of this section, "intimate partner" includes: A spouse, a domestic partner, a former spouse, a former domestic partner, a person with whom the restrained person has a child in common, or a person with whom the restrained person has cohabitated or is cohabitating as part of a dating relationship.

Sec. 8. RCW 46.20.265 and 2005 c 288 s 2 are each amended to read as follows:

(1) In addition to any other authority to revoke driving privileges under this chapter, the department shall revoke all driving privileges of a juvenile when the department receives notice from a court pursuant to RCW 9.41.040(5), 13.40.265, 66.44.365, 69.41.065, 69.50.420, 69.52.070, or a substantially similar municipal ordinance adopted by a local legislative authority, or from a diversion unit pursuant to RCW 13.40.265.

(2) The driving privileges of the juvenile revoked under subsection (1) of this section shall be revoked in the following manner:

(a) Upon receipt of the first notice, the department shall impose a revocation for one year, or until the juvenile reaches seventeen years of age, whichever is longer.

(b) Upon receipt of a second or subsequent notice, the department shall impose a revocation for two years or until the juvenile reaches eighteen years of age, whichever is longer.

(c) Each offense for which the department receives notice shall result in a separate period of revocation. All periods of revocation imposed under this section that could otherwise overlap shall run consecutively up to the juvenile's twenty-first birthday, and no period of revocation imposed under this section shall begin before the expiration of all other periods of revocation imposed

under this section or other law. Periods of revocation imposed consecutively under this section shall not extend beyond the juvenile's twenty-first birthday.

(3)(a) If the department receives notice from a court that the juvenile's privilege to drive should be reinstated, the department shall immediately reinstate any driving privileges that have been revoked under this section if the minimum term of revocation as specified in RCW 13.40.265((~~(1)(c)~~)) (3), 66.44.365(3), 69.41.065(3), 69.50.420(3), 69.52.070(3), or similar ordinance has expired, and subject to subsection (2)(c) of this section.

(b) The juvenile may seek reinstatement of his or her driving privileges from the department when the juvenile reaches the age of twenty-one. A notice from the court reinstating the juvenile's driving privilege shall not be required if reinstatement is pursuant to this subsection.

(((~~(4)(a) If the department receives notice pursuant to RCW 13.40.265(2)(b) from a diversion unit that a juvenile has completed a diversion agreement for which the juvenile's driving privileges were revoked, the department shall reinstate any driving privileges revoked under this section as provided in (b) of this subsection, subject to subsection (2)(c) of this section.~~

~~(b) If the diversion agreement was for the juvenile's first violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department shall not reinstate the juvenile's privilege to drive until the later of ninety days after the date the juvenile turns sixteen or ninety days after the juvenile entered into a diversion agreement for the offense. If the diversion agreement was for the juvenile's second or subsequent violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department shall not reinstate the juvenile's privilege to drive until the later of the date the juvenile turns seventeen or one year after the juvenile entered into the second or subsequent diversion agreement.~~))

Sec. 9. RCW 66.44.365 and 1989 c 271 s 118 are each amended to read as follows:

(1) If a juvenile thirteen years of age or older and under the age of eighteen is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment, unless the offense is the juvenile's first offense in violation of this chapter and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 69.41, 69.50, or 69.52 RCW.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile whose privilege to drive has been revoked pursuant to RCW 46.20.265, the court may notify the department of licensing that the juvenile's privilege to drive should be reinstated.

(3) If the conviction is for the juvenile's first violation of this chapter or chapter 69.41, 69.50, or 69.52 RCW, a juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapter 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered.

Sec. 10. RCW 69.41.065 and 1989 c 271 s 119 are each amended to read as follows:

(1) If a juvenile thirteen years of age or older and under the age of twenty-one is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment, unless the offense is the juvenile's first offense in violation of this chapter and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.50, or 69.52 RCW.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile whose privilege to drive has been revoked pursuant to RCW 46.20.265, the court may notify the department of licensing that the juvenile's privilege to drive should be reinstated.

(3) If the conviction is for the juvenile's first violation of this chapter or chapter 66.44, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapter 66.44, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered.

Sec. 11. RCW 69.50.420 and 1989 c 271 s 120 are each amended to read as follows:

(1) If a juvenile thirteen years of age or older and under the age of twenty-one is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment, unless the offense is the juvenile's first offense in violation of this chapter and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.41, or 69.52 RCW.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile whose privilege to drive has been revoked pursuant to RCW 46.20.265, the court may at any time the court deems appropriate notify the department of licensing to reinstate the juvenile's privilege to drive.

(3) If the conviction is for the juvenile's first violation of this chapter or chapter 66.44, 69.41, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapter 66.44, 69.41, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered.

Sec. 12. RCW 69.52.070 and 1989 c 271 s 121 are each amended to read as follows:

(1) If a juvenile thirteen years of age or older and under the age of twenty-one is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment, unless the offense is the juvenile's first offense in violation of this chapter and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.41, or 69.50 RCW.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile whose privilege to drive has been revoked pursuant to RCW 46.20.265, the court may at any time the court deems appropriate notify the department of licensing to reinstate the juvenile's privilege to drive.

(3) If the conviction is for the juvenile's first violation of this chapter or chapter 66.44, 69.41, or 69.50 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapter 66.44, 69.41, or 69.50 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered.

Passed by the House March 8, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 137

[Substitute House Bill 2938]

TRADE CONVENTION PARTICIPATION--SUBSTANTIAL NEXUS ESTABLISHMENT--TAXATION

AN ACT Relating to encouraging participation in Washington trade conventions by modifying tax provisions related to establishing substantial nexus; amending RCW 82.04.067; adding a new section to chapter 82.32 RCW; creating a new section; and providing an effective date.

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

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

(2) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to encourage participation in Washington trade conventions. It is the legislature's intent to allow a business to participate in one trade convention in Washington each year without that participation being the sole basis for establishing physical presence nexus with the state for tax purposes. Pursuant to chapter 43.136 RCW, the joint

legislative audit and review committee must review the new tax preference established under section 3 of this act by December 31, 2025.

(4) If a review finds that the number of businesses participating in trade conventions in Washington has increased from 2015 levels, then the legislature intends for the legislative auditor to recommend extending the expiration date of the tax preference. If the joint legislative audit and review committee finds that the number of businesses participating in trade conventions in Washington has not increased above 2015 levels, then the joint legislative audit and review committee must make recommendations on how the tax preference can be improved to accomplish that legislative objective. To obtain the data necessary to perform this review, the joint legislative audit and review committee must request the required information from the department of revenue and the Washington state convention center operated under chapter 36.100 RCW.

Sec. 2. RCW 82.04.067 and 2015 3rd sp.s. c 5 s 204 are each amended to read as follows:

(1) A person engaging in business is deemed to have substantial nexus with this state if the person is:

(a) An individual and is a resident or domiciliary of this state;

(b) A business entity and is organized or commercially domiciled in this state; or

(c) A nonresident individual or a business entity that is organized or commercially domiciled outside this state, and in the immediately preceding tax year the person had:

(i) More than fifty thousand dollars of property in this state;

(ii) More than fifty thousand dollars of payroll in this state;

(iii) More than two hundred fifty thousand dollars of receipts from this state; or

(iv) At least twenty-five percent of the person's total property, total payroll, or total receipts in this state.

(2)(a) Property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section is the average value of the taxpayer's property, including intangible property, owned or rented and used in this state during the immediately preceding tax year.

(b)(i) Property owned by the taxpayer, other than loans and credit card receivables owned by the taxpayer, is valued at its original cost basis. Loans and credit card receivables owned by the taxpayer are valued at their outstanding principal balance, without regard to any reserve for bad debts. However, if a loan or credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the loan or credit card receivable charged off is deducted from the outstanding principal balance.

(ii) Property rented by the taxpayer is valued at eight times the net annual rental rate. For purposes of this subsection, "net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(c) The average value of property must be determined by averaging the values at the beginning and ending of the tax year; but the department may require the averaging of monthly values during the tax year if reasonably required to properly reflect the average value of the taxpayer's property.

(d)(i) For purposes of this subsection (2), loans and credit card receivables are deemed owned and used in this state as follows:

(A) Loans secured by real property, personal property, or both real and personal property are deemed owned and used in the state if the real property or personal property securing the loan is located within this state. If the property securing the loan is located both within this state and one or more other states, the loan is deemed owned and used in this state if more than fifty percent of the fair market value of the real or personal property is located within this state. If more than fifty percent of the fair market value of the real or personal property is not located within any one state, then the loan is deemed owned and used in this state if the borrower is located in this state. The determination of whether the real or personal property securing a loan is located within this state must be made, as of the time the original agreement was made, and any and all subsequent substitutions of collateral must be disregarded.

(B) Loans not secured by real or personal property are deemed owned and used in this state if the borrower is located in this state.

(C) Credit card receivables are deemed owned and used in this state if the billing address of the cardholder is in this state.

(ii)(A) Except as otherwise provided in (d)(ii)(B) of this subsection (2), the definitions in the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on June 1, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, apply to this section.

(B) "Credit card" means a card or device existing for the purpose of obtaining money, property, labor, or services on credit.

(e) Notwithstanding anything else to the contrary in this subsection, property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section does not include a person's ownership of, or rights in, computer software as defined in RCW 82.04.215, including computer software used in providing a digital automated service; master copies of software; and digital goods and digital codes residing on servers located in this state.

(3)(a) Payroll counting toward the thresholds in subsection (1)(c)(ii) and (iv) of this section is the total amount paid by the taxpayer for compensation in this state during the immediately preceding tax year plus nonemployee compensation paid to representative third parties in this state. Nonemployee compensation paid to representative third parties includes the gross amount paid to nonemployees who represent the taxpayer in interactions with the taxpayer's clients and includes sales commissions.

(b) Employee compensation is paid in this state if the compensation is properly reportable to this state for unemployment compensation tax purposes, regardless of whether the compensation was actually reported to this state.

(c) Nonemployee compensation is paid in this state if the service performed by the representative third party occurs entirely or primarily within this state.

(d) For purposes of this subsection, "compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees or nonemployees and defined as gross income under 26 U.S.C. Sec. 61 of the federal internal revenue code of 1986, as existing on June 1, 2010.

(4) Receipts counting toward the thresholds in subsection (1)(c)(iii) and (iv) of this section are:

(a) Those amounts included in the numerator of the receipts factor under RCW 82.04.462;

(b) For financial institutions, those amounts included in the numerator of the receipts factor under the rule adopted by the department as authorized in RCW 82.04.460(2); and

(c) For persons taxable under RCW 82.04.257(1) or 82.04.270 with respect to wholesale sales, the gross proceeds of sales taxable under those statutory provisions and sourced to this state in accordance with RCW 82.32.730.

(5)(a) Each December, the department must review the cumulative percentage change in the consumer price index. The department must adjust the thresholds in subsection (1)(c)(i) through (iii) of this section if the consumer price index has changed by five percent or more since the later of June 1, 2010, or the date that the thresholds were last adjusted under this subsection. For purposes of determining the cumulative percentage change in the consumer price index, the department must compare the consumer price index available as of December 1st of the current year with the consumer price index as of the later of June 1, 2010, or the date that the thresholds were last adjusted under this subsection. The thresholds must be adjusted to reflect that cumulative percentage change in the consumer price index. The adjusted thresholds must be rounded to the nearest one thousand dollars. Any adjustment will apply to tax periods that begin after the adjustment is made.

(b) As used in this subsection, "consumer price index" means the consumer price index for all urban consumers (CPI-U) available from the bureau of labor statistics of the United States department of labor.

(6)(a) Subsections (1) through (5) of this section only apply with respect to the taxes on persons engaged in apportionable activities as defined in RCW 82.04.460 or making wholesale sales taxable under RCW 82.04.257(1) or 82.04.270. For purposes of the taxes imposed under this chapter on any activity not included in the definition of apportionable activities in RCW 82.04.460, other than the business of making wholesale sales taxed under RCW 82.04.257(1) or 82.04.270, <u>except as provided in section 3 of this act,</u> a person is deemed to have a substantial nexus with this state if the person has a physical presence in this state during the tax year, which need only be demonstrably more than a slightest presence.

(b) For purposes of this subsection, a person is physically present in this state if the person has property or employees in this state.

(c)(i) A person is also physically present in this state for the purposes of this subsection if the person, either directly or through an agent or other representative, engages in activities in this state that are significantly associated with the person's ability to establish or maintain a market for its products in this state.

(ii) A remote seller as defined in RCW 82.08.052 is presumed to be engaged in activities in this state that are significantly associated with the remote seller's ability to establish or maintain a market for its products in this state if the remote seller is presumed to have a substantial nexus with this state under RCW 82.08.052. The presumption in this subsection (6)(c)(ii) may be rebutted as provided in RCW 82.08.052. To the extent that the presumption in RCW 82.08.052 is no longer operative pursuant to RCW 82.32.762, the presumption in this subsection (6)(c)(ii) is no longer operative. Nothing in this section may be

construed to affect in any way RCW 82.04.424, 82.08.050(11), or 82.12.040(5) or to narrow the scope of the terms "agent" or "other representative" in this subsection (6)(c).

NEW SECTION. **Sec. 3.** A new section is added to chapter 82.32 RCW to read as follows:

(1) For purposes of the taxes imposed or authorized under chapters 82.04, 82.08, 82.12, and 82.14 RCW, the department may not make a determination of nexus based solely on the attendance or participation of one or more representatives of a person at a single trade convention per year in Washington state in determining if such person is physically present in this state for the purposes of establishing substantial nexus with this state.

(2) Subsection (1) of this section does not apply to persons making retail sales at a trade convention, including persons taking orders for products or services where receipt will occur in Washington state.

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

(a) "Not marketed to the general public" means that the sponsor of a trade convention limits its marketing efforts for the trade convention to its members and specific invited guests of the sponsoring organization.

(b) "Physically present in this state" and "substantial nexus with this state" have the same meaning as provided in RCW 82.04.067.

(c) "Trade convention" means an exhibition for a specific industry or profession, which is not marketed to the general public, for the purposes of:

(i) Exhibiting, demonstrating, and explaining services, products, or equipment to potential customers; or

(ii) The exchange of information, ideas, and attitudes in regards to that industry or profession.

NEW SECTION. **Sec. 4.** This act takes effect July 1, 2016.

Passed by the House March 8, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 138

[Engrossed House Bill 2971]

REAL ESTATE TRANSACTIONS--CITY AND COUNTY REGULATION

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; and amending RCW 64.06.080, 43.110.030, 82.46.015, and 82.46.037.

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

Sec. 1. RCW 64.06.080 and 2015 2nd sp.s. c 10 s 4 are each amended 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:

(a) A summary of the ordinance, resolution, or policy is posted electronically in accordance with RCW 43.110.030(2)(e); and

(b) An internet link to the ordinance, resolution, or policy, or the relevant portion of the actual language of the ordinance, resolution, or policy, is posted electronically in accordance with RCW 43.110.030(2)(e).

(2) If, prior to ((~~September 26, 2015~~)) the effective date of this act, 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, within ninety days of the effective date of this act:

(a) A summary of the ordinance, resolution, or policy to be posted electronically in accordance with RCW 43.110.030(2)(e); and

(b) An internet link to the ordinance, resolution, or policy, or the relevant portion of the actual language of the ordinance, resolution, or policy, to be posted electronically in accordance with RCW 43.110.030(2)(e) ((~~within ninety days of September 26, 2015, or the requirement shall~~)). If the requirement is not electronically posted as required by this subsection, the requirement must thereafter cease to be in effect.

Sec. 2. RCW 43.110.030 and 2015 2nd sp.s. c 10 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;

(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~~)) (i) For any ordinance, resolution, or policy adopted by a city, town, or county that imposes a requirement 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~~)), posting:

(A) A summary of the ordinance, resolution, or policy; and

(B) An internet link to the ordinance, resolution, or policy, or the relevant portion of the actual language of the ordinance, resolution, or policy.

(ii) Information provided by cities, towns, and counties regarding an ordinance, resolution, or policy under (e)(i) of this subsection 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 RCW 64.06.080.

(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.

Sec. 3. RCW 82.46.015 and 2015 2nd sp.s. c 10 s 2 are each amended 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)(i) The city or county has not enacted, after ((~~September 26, 2015,~~)) the effective date of this act: Any requirement on the listing((~~, leasing,~~)) or sale of real property((~~, unless the requirement is either~~)); or any requirement on landlords, at the time of executing a lease, to perform or provide physical improvements or modifications to real property or fixtures, except if necessary to address an immediate threat to health or safety; or

(ii) Any local requirement adopted by the city or county under (b)(i) of this subsection is: Specifically authorized by RCW 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW; specifically authorized by other state or federal law; or ((~~is~~)) a seller or landlord disclosure requirement pursuant to RCW 64.06.080.

(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.

Sec. 4. RCW 82.46.037 and 2015 2nd sp.s. c 10 s 3 are each amended 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)(i) The city or county has not enacted, after ((~~September 26, 2015~~)) the effective date of this act, any requirement on the listing((~~, leasing,~~)) or sale of real property((~~, unless the requirement is either~~)); or any requirement on landlords, at the time of executing a lease, to perform or provide physical improvements or modifications to real property or fixtures, except if necessary to address an immediate threat to health or safety; or

(ii) Any local requirement adopted by the city or county under (b)(i) of this subsection is: Specifically authorized by RCW 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW; specifically authorized by other state or federal law; or ((~~is~~)) a seller or landlord disclosure requirement pursuant to RCW 64.06.080.

(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.

Passed by the House March 8, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 139

[House Bill 2326]

INDEPENDENT REVIEW ORGANIZATIONS--REGULATORY AUTHORITY AND REPORTING--TRANSFER

AN ACT Relating to streamlining the independent review organization process by transferring regulatory authority over independent review organizations from the department of health to the insurance commissioner and requiring independent review organizations to report decisions and associated information directly to the insurance commissioner; amending RCW 43.70.235, 41.05.017, and 70.47.130; adding a new section to chapter 48.43 RCW; creating a new section; and recodifying RCW 43.70.235.

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

Sec. 1. RCW 43.70.235 and 2012 c 211 s 14 are each amended to read as follows:

(1) No later than January 1, 2017, the ((~~department~~)) insurance commissioner shall adopt rules providing a procedure and criteria for certifying one or more organizations to perform independent review of health care disputes described in RCW 48.43.535.

(2) The rules must require that the organization ensure:

(a) The confidentiality of medical records transmitted to an independent review organization for use in independent reviews;

(b) That each health care provider, physician, or contract specialist making review determinations for an independent review organization is qualified. Physicians, other health care providers, and, if applicable, contract specialists must be appropriately licensed, certified, or registered as required in Washington state or in at least one state with standards substantially comparable to Washington state. Reviewers may be drawn from nationally recognized centers of excellence, academic institutions, and recognized leading practice sites. Expert medical reviewers should have substantial, recent clinical experience dealing with the same or similar health conditions. The organization must have demonstrated expertise and a history of reviewing health care in terms of medical necessity, appropriateness, and the application of other health plan coverage provisions;

(c) That any physician, health care provider, or contract specialist making a review determination in a specific review is free of any actual or potential conflict of interest or bias. Neither the expert reviewer, nor the independent review organization, nor any officer, director, or management employee of the

independent review organization may have any material professional, familial, or financial affiliation with any of the following: The health carrier; professional associations of carriers and providers; the provider; the provider's medical or practice group; the health facility at which the service would be provided; the developer or manufacturer of a drug or device under review; or the enrollee;

(d) The fairness of the procedures used by the independent review organization in making the determinations;

(e) That each independent review organization make its determination:

(i) Not later than the earlier of:

(A) The fifteenth day after the date the independent review organization receives the information necessary to make the determination; or

(B) The twentieth day after the date the independent review organization receives the request that the determination be made. In exceptional circumstances, when the independent review organization has not obtained information necessary to make a determination, a determination may be made by the twenty-fifth day after the date the organization received the request for the determination; and

(ii) In requests for expedited review under RCW 48.43.535(7)(a), as expeditiously as possible but within not more than seventy-two hours after the date the independent review organization receives the request for expedited review;

(f) That timely notice is provided to enrollees of the results of the independent review, including the clinical basis for the determination;

(g) That the independent review organization has a quality assurance mechanism in place that ensures the timeliness and quality of review and communication of determinations to enrollees and carriers, and the qualifications, impartiality, and freedom from conflict of interest of the organization, its staff, and expert reviewers; and

(h) That the independent review organization meets any other reasonable requirements of the ((~~department~~)) insurance commissioner directly related to the functions the organization is to perform under this section and RCW 48.43.535, and related to assessing fees to carriers in a manner consistent with the maximum fee schedule developed under this section.

(3) To be certified as an independent review organization under this chapter, an organization must submit to the ((~~department~~)) insurance commissioner an application in the form required by the ((~~department~~)) insurance commissioner. The application must include:

(a) For an applicant that is publicly held, the name of each stockholder or owner of more than five percent of any stock or options;

(b) The name of any holder of bonds or notes of the applicant that exceed one hundred thousand dollars;

(c) The name and type of business of each corporation or other organization that the applicant controls or is affiliated with and the nature and extent of the affiliation or control;

(d) The name and a biographical sketch of each director, officer, and executive of the applicant and any entity listed under (c) of this subsection and a description of any relationship the named individual has with:

(i) A carrier;

(ii) A utilization review agent;

(iii) A nonprofit or for-profit health corporation;

(iv) A health care provider;

(v) A drug or device manufacturer; or

(vi) A group representing any of the entities described by (d)(i) through (v) of this subsection;

(e) The percentage of the applicant's revenues that are anticipated to be derived from reviews conducted under RCW 48.43.535;

(f) A description of the areas of expertise of the health care professionals and contract specialists making review determinations for the applicant; and

(g) The procedures to be used by the independent review organization in making review determinations regarding reviews conducted under RCW 48.43.535.

(4) If at any time there is a material change in the information included in the application under subsection (3) of this section, the independent review organization shall submit updated information to the ((~~department~~)) insurance commissioner.

(5) An independent review organization may not be a subsidiary of, or in any way owned or controlled by, a carrier or a trade or professional association of health care providers or carriers.

(6) An independent review organization, and individuals acting on its behalf, are immune from suit in a civil action when performing functions under chapter 5, Laws of 2000. However, this immunity does not apply to an act or omission made in bad faith or that involves gross negligence.

(7) Independent review organizations must be free from interference by state government in its functioning except as provided in subsection (8) of this section.

(8) The rules adopted under this section shall include provisions for terminating the certification of an independent review organization for failure to comply with the requirements for certification. The ((~~department~~)) insurance commissioner may review the operation and performance of an independent review organization in response to complaints or other concerns about compliance. ((~~No later than January 1, 2006, the department shall develop~~)) The rules adopted under this section must include a reasonable maximum fee schedule that independent review organizations shall use to assess carriers for conducting reviews authorized under RCW 48.43.535.

(9) In adopting rules for this section, the ((~~department~~)) insurance commissioner shall take into consideration rules adopted by the department of health that regulate independent review organizations and standards for independent review organizations adopted by national accreditation organizations. The ((~~department~~)) insurance commissioner may accept national accreditation or certification by another state as evidence that an organization satisfies some or all of the requirements for certification by the ((~~department~~)) insurance commissioner as an independent review organization.

(10) The rules adopted under this section must require independent review organizations to report decisions and associated information directly to the insurance commissioner.

NEW SECTION. **Sec. 2.** (1) Independent review organizations remain subject to RCW 43.70.235 (as recodified by this act), as it existed on January 1, 2016, and the rules adopted by the department of health under that section

through December 31, 2016. Beginning on January 1, 2017, the insurance commissioner is the sole certifying authority for independent review organizations under RCW 43.70.235 (as recodified by this act).

(2) On January 1, 2017, the insurance commissioner shall automatically certify each independent review organization that was certified in good standing by the department of health on December 31, 2016.

NEW SECTION. **Sec. 3.** RCW 43.70.235 is recodified as a section in chapter 48.43 RCW.

Sec. 4. RCW 41.05.017 and 2008 c 304 s 2 are each amended to read as follows:

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 43.70.235 (as recodified by this act), 48.43.545, 48.43.550, 70.02.110, 70.02.900, 48.43.190, and 48.43.083.

Sec. 5. RCW 70.47.130 and 2009 c 298 s 4 are each amended to read as follows:

(1) The activities and operations of the Washington basic health plan under this chapter, including those of managed health care systems to the extent of their participation in the plan, are exempt from the provisions and requirements of Title 48 RCW except:

(a) Benefits as provided in RCW 70.47.070;

(b) Managed health care systems are subject to the provisions of RCW 48.43.022, 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 43.70.235 (as recodified by this act), 48.43.545, 48.43.550, 70.02.110, and 70.02.900;

(c) Persons appointed or authorized to solicit applications for enrollment in the basic health plan, including employees of the health care authority, must comply with chapter 48.17 RCW. For purposes of this subsection (1)(c), "solicit" does not include distributing information and applications for the basic health plan and responding to questions;

(d) Amounts paid to a managed health care system by the basic health plan for participating in the basic health plan and providing health care services for nonsubsidized enrollees in the basic health plan must comply with RCW 48.14.0201; and

(e) Administrative simplification requirements as provided in chapter 298, Laws of 2009.

(2) The purpose of the 1994 amendatory language to this section in chapter 309, Laws of 1994 is to clarify the intent of the legislature that premiums paid on behalf of nonsubsidized enrollees in the basic health plan are subject to the premium and prepayment tax. The legislature does not consider this clarifying language to either raise existing taxes nor to impose a tax that did not exist previously.

Passed by the House February 11, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 140

[Engrossed Substitute Senate Bill 5029]

REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT

AN ACT Relating to the revised uniform fiduciary access to digital assets act; and adding a new chapter to Title 11 RCW.

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 revised uniform fiduciary access to digital assets act.

NEW SECTION. **Sec. 2.** DEFINITIONS. In this chapter:

(1) "Account" means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

(2) "Agent" means an attorney in fact granted authority under a durable or nondurable power of attorney.

(3) "Carries" means engages in the transmission of an electronic communication.

(4) "Catalogue of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

(5) "Content of an electronic communication" means information concerning the substance or meaning of the communication which:

(a) Has been sent or received by a user;

(b) Is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and

(c) Is not readily accessible to the public.

(6) "Court" means the superior court of each county.

(7) "Custodian" means a person that carries, maintains, processes, receives, or stores a digital asset of a user.

(8) "Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user.

(9) "Digital asset" means an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

(10) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(11) "Electronic communication" has the meaning set forth in 18 U.S.C. Sec. 2510(12), as it existed on the effective date of this section.

(12) "Electronic communication service" means a custodian that provides to a user the ability to send or receive an electronic communication.

(13) "Fiduciary" means an original, additional, or successor personal representative, guardian, agent, or trustee.

(14) "Guardian" means a person appointed by a court to manage the estate or person, or both, of a living individual. The term includes a limited guardian or certified professional guardian.

(15) "Incapacitated person" means an individual for whom a guardian has been appointed.

(16) "Information" means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

(17) "Online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

(18) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(19) "Personal representative" means an executor, administrator, special administrator, or person that performs substantially the same function under law of this state other than this chapter.

(20) "Power of attorney" means a record that grants an agent authority to act in the place of a principal.

(21) "Principal" means an individual who grants authority to an agent in a power of attorney.

(22) "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.

(23) "Remote computing service" means a custodian that provides to a user computer processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. Sec. 2510(14), as it existed on the effective date of this section.

(24) "Terms-of-service agreement" means an agreement that controls the relationship between a user and a custodian.

(25) "Trustee" means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee.

(26) "User" means a person that has an account with a custodian.

(27) "Will" includes a codicil, testamentary instrument that only appoints an executor, and instrument that revokes or revises a testamentary instrument.

NEW SECTION. **Sec. 3.** APPLICABILITY. (1) This chapter applies to:

(a) A fiduciary acting under a will or power of attorney executed before, on, or after the effective date of this section;

(b) A personal representative acting for a decedent who died before, on, or after the effective date of this section;

(c) A guardian acting for an incapacitated person appointed before, on, or after the effective date of this section;

(d) A trustee acting under a trust created before, on, or after the effective date of this section; and

(e) A custodian if the user resides in this state or resided in this state at the time of the user's death.

(2) This chapter does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

NEW SECTION. **Sec. 4.** USER DIRECTION FOR DISCLOSURE OF DIGITAL ASSETS. (1) A user may use an online tool to direct the custodian to disclose to a designated recipient or not to disclose some or all of the user's digital assets, including the content of electronic communications. If the online

tool allows the user to modify or delete a direction at all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

(2) If a user has not used an online tool to give direction under subsection (1) of this section or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record, disclosure to a fiduciary of some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

(3) A user's direction under subsection (1) or (2) of this section overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms-of-service agreement.

NEW SECTION. **Sec. 5.** TERMS-OF-SERVICE AGREEMENT. (1) This chapter does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

(2) This chapter does not give a fiduciary or a designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

(3) A fiduciary's or designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under section 4 of this act.

NEW SECTION. **Sec. 6.** PROCEDURE FOR DISCLOSING DIGITAL ASSETS. (1) When disclosing digital assets of a user under this chapter, the custodian may at its sole discretion:

(a) Grant a fiduciary or designated recipient full access to the user's account;

(b) Grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or

(c) Provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

(2) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this chapter.

(3) A custodian need not disclose under this chapter a digital asset deleted by a user.

(4) If a user directs or a fiduciary or designated recipient requests a custodian to disclose under this chapter some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or the fiduciary or designated recipient may seek an order from the court to disclose:

(a) A subset limited by date of the user's digital assets;

(b) All of the user's digital assets to the fiduciary or designated recipient;

(c) None of the user's digital assets; or

(d) All of the user's digital assets to the court for review in camera.

NEW SECTION. **Sec. 7.** DISCLOSURE OF CONTENT OF ELECTRONIC COMMUNICATIONS OF DECEASED USER. If a deceased

user consented to or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the personal representative gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the death certificate of the user;

(3) A certified copy of the letter of appointment of the representative, or a small estate affidavit or court order;

(4) Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; and

(5) If requested by the custodian:

(a) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(b) Evidence linking the account to the user; or

(c) A finding by the court that:

(i) The user had a specific account with the custodian, identifiable by the information specified in (a) of this subsection;

(ii) Disclosure of the content of electronic communications of the user would not violate 18 U.S.C. Sec. 2701 et seq. and 47 U.S.C. Sec. 222, existing on the effective date of this section, or other applicable law;

(iii) Unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or

(iv) Disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

NEW SECTION. **Sec. 8.** DISCLOSURE OF OTHER DIGITAL ASSETS OF DECEASED USER. Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalogue of electronic communications sent or received by the user and digital assets, other than the content of electronic communications of the user, if the representative gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the death certificate of the user;

(3) A certified copy of the letter of appointment of the representative, or a small estate affidavit or court order; and

(4) If requested by the custodian:

(a) A number, user name, or address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(b) Evidence linking the account to the user;

(c) An affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or

(d) A finding by the court that:

(i) The user had a specific account with the custodian, identifiable by the information specified in (a) of this subsection; or

(ii) Disclosure of the user's digital assets is reasonably necessary for administration of the estate.

NEW SECTION. **Sec. 9.** DISCLOSURE OF CONTENT OF ELECTRONIC COMMUNICATIONS OF PRINCIPAL. To the extent a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) An original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;

(3) A certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) If requested by the custodian:

(a) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(b) Evidence linking the account to the principal.

NEW SECTION. **Sec. 10.** DISCLOSURE OF OTHER DIGITAL ASSETS OF PRINCIPAL. Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalogue of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications of the principal, if the agent gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) An original or a copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;

(3) A certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) If requested by the custodian:

(a) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(b) Evidence linking the account to the principal.

NEW SECTION. **Sec. 11.** DISCLOSURE OF DIGITAL ASSETS HELD IN TRUST WHEN TRUSTEE IS ORIGINAL USER. Unless otherwise ordered by the court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account any digital asset of that account held in trust, including a catalogue of electronic communications of the trustee and the content of electronic communications.

NEW SECTION. **Sec. 12.** DISCLOSURE OF CONTENT OF ELECTRONIC COMMUNICATIONS HELD IN TRUST WHEN TRUSTEE NOT ORIGINAL USER. Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the trust instrument, or a certification of the trust under RCW 11.98.075, that includes consent to disclosure of the content of electronic communications to the trustee;

(3) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) If requested by the custodian:

(a) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(b) Evidence linking the account to the trust.

NEW SECTION. **Sec. 13.** DISCLOSURE OF OTHER DIGITAL ASSETS HELD IN TRUST WHEN TRUSTEE NOT ORIGINAL USER. Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications in which the trust has a right or interest, if the trustee gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the trust instrument or a certification of the trust under RCW 11.98.075;

(3) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) If requested by the custodian:

(a) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(b) Evidence linking the account to the trust.

NEW SECTION. **Sec. 14.** DISCLOSURE OF DIGITAL ASSETS TO GUARDIAN OF INCAPACITATED PERSON. (1) Unless otherwise ordered by the court, a guardian appointed due to a finding of incapacity under RCW 11.88.010(1) has the right to access an incapacitated person's digital assets other than the content of electronic communications.

(2) Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a guardian the catalogue of electronic communications sent or received by an incapacitated person and any digital assets, other than the content of electronic communications, if the guardian gives the custodian:

(a) A written request for disclosure in physical or electronic form;

(b) Certified copies of letters of guardianship and the court order appointing the guardian; and

(c) If requested by the custodian:

(i) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the person; or

(ii) Evidence linking the account to the incapacitated person.

(3) A guardian may request a custodian of the incapacitated person's digital assets to suspend or terminate an account of the incapacitated person for good cause. A request made under this section must be accompanied by certified copies of letters of guardianship and the court order appointing the guardian.

NEW SECTION. **Sec. 15.** FIDUCIARY DUTY AND AUTHORITY. (1) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:

(a) The duty of care;

(b) The duty of loyalty; and

(c) The duty of confidentiality.

(2) A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

(a) Except as otherwise provided in section 4 of this act, is subject to the applicable terms-of-service agreement;

(b) Is subject to other applicable law, including copyright law;

(c) In the case of a fiduciary, is limited by the scope of the fiduciary's duties; and

(d) May not be used to impersonate the user.

(3) A fiduciary with authority over the property of a decedent, incapacitated person, principal, or settlor has the right to access any digital asset in which the decedent, incapacitated person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

(4) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, incapacitated person, principal, or settlor for the purpose of applicable computer fraud and unauthorized computer access laws.

(5) A fiduciary with authority over the tangible, personal property of a decedent, incapacitated person, principal, or settlor:

(a) Has the right to access the property and any digital asset stored in it; and

(b) Is an authorized user for the purpose of computer fraud and unauthorized computer access laws.

(6) A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

(7) A fiduciary of a user may request a custodian to terminate the user's account. A request for termination must be in writing, in either physical or electronic form, and accompanied by:

(a) If the user is deceased, a certified copy of the death certificate of the user;

(b) A certified copy of the letter of appointment of the representative or a small estate affidavit or court order, court order, power of attorney, or trust giving the fiduciary authority over the account; and

(c) If requested by the custodian:

(i) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(ii) Evidence linking the account to the user; or

(iii) A finding by the court that the user had a specific account with the custodian, identifiable by the information specified in (c)(i) of this subsection.

NEW SECTION. **Sec. 16.** CUSTODIAN COMPLIANCE AND IMMUNITY. (1) Not later than sixty days after receipt of the information required under sections 7 through 15 of this act, a custodian shall comply with a request under this chapter from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the

fiduciary or designated recipient may apply to the court for an order directing compliance.

(2) An order under subsection (1) of this section directing compliance must contain a finding that compliance is not in violation of 18 U.S.C. Sec. 2702, as it existed on the effective date of this section.

(3) A custodian may notify the user that a request for disclosure or to terminate an account was made under this chapter.

(4) A custodian may deny a request under this chapter from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

(5) This section does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under this chapter to obtain a court order which:

(a) Specifies that an account belongs to the incapacitated person, trustor, decedent, or principal;

(b) Specifies that there is sufficient consent from the incapacitated person, trustor, decedent, or principal to support the requested disclosure; and

(c) Contains a finding required by law other than this chapter.

(6) A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this chapter.

NEW SECTION. **Sec. 17.** UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. **Sec. 18.** RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. Sec. 7001(c) or authorize electronic delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

NEW SECTION. **Sec. 19.** SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 20.** Sections 1 through 19 of this act constitute a new chapter in Title 11 RCW.

Passed by the Senate March 7, 2016.

Passed by the House March 3, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.

CHAPTER 141

[Senate Bill 5143]

CHILDHOOD IMMUNIZATIONS--RESOURCES FOR EXPECTING PARENTS

AN ACT Relating to providing information regarding childhood immunizations to expecting parents; and adding a new section to chapter 43.70 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.70 RCW to read as follows:

The department shall develop and make available resources for expecting parents regarding recommended childhood immunizations. The resources are intended to be provided to expecting parents by their health care providers to encourage discussion on childhood immunizations and postnatal care.

Passed by the Senate February 10, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 142

[Senate Bill 5180]

LIFE INSURANCE--RESERVE REQUIREMENTS--VALUATION

AN ACT Relating to modernizing life insurance reserve requirements; amending RCW 48.74.010, 48.74.020, 48.74.025, 48.74.030, 48.74.050, 48.74.060, 48.74.070, 48.74.090, 48.76.010, 48.76.050, and 42.56.400; reenacting and amending RCW 42.56.400; adding new sections to chapter 48.74 RCW; providing effective dates; and providing an expiration date.

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

Sec. 1. RCW 48.74.010 and 1982 1st ex.s. c 9 s 1 are each amended to read as follows:

This chapter may be known and cited as the standard valuation law. ((~~As used in this chapter, "NAIC" means the National Association of Insurance Commissioners.~~))

NEW SECTION. **Sec. 2.** A new section is added to chapter 48.74 RCW to read as follows:

Beginning on the operative date of the valuation manual, the definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in section 6 of this act.

(2) "Company" means an entity, that:

(a) Has written, issued, or reinsured life insurance contracts, disability insurance contracts, or deposit-type contracts in this state and has at least one such policy in force or on claim; or

(b) Has written, issued, or reinsured life insurance contracts, disability insurance contracts, or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, disability insurance, or deposit-type contracts in this state.

(3) "Deposit-type contract" means contracts that do not incorporate mortality or morbidity risks and as may be specified in the valuation manual.

(4) "Disability insurance," which also may be known in the industry as "accident and health insurance," means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

(5) "Life insurance" means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.

(6) "NAIC" means the national association of insurance commissioners.

(7) "Policyholder behavior" means any action a policyholder, contract holder, or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this chapter including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(8) "Principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with section 14 of this act as specified in the valuation manual.

(9) "Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American academy of actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(10) "Tail risk" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(11) "Valuation manual" means the manual of valuation instructions adopted by the NAIC as specified in this chapter.

Sec. 3. RCW 48.74.020 and 1982 1st ex.s. c 9 s 2 are each amended to read as follows:

This section applies to policies and contracts issued prior to the operative date of the valuation manual.

(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state((~~, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest, and methods, including net level premium method or other, used in the calculation of such reserves~~)) issued on or after July 10, 1982, and prior to the operative date of the valuation manual. In calculating such reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard provided in this chapter ((~~and if the official of such state or jurisdiction accepts as sufficient and~~

~~valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction~~)).

(2) RCW 48.74.030 through 48.74.090 apply to all policies and contracts, as appropriate, subject to this chapter issued on or after July 10, 1982, and prior to the operative date of the valuation manual and sections 13 and 14 of this act do not apply to any such policies and contracts.

(3) The minimum standard for valuation of policies and contracts issued prior to July 10, 1982, is that provided by the laws immediately prior to that date.

NEW SECTION. **Sec. 4.** A new section is added to chapter 48.74 RCW to read as follows:

This section applies to policies and contracts issued on or after the operative date of the valuation manual.

(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities, called reserves, for all outstanding life insurance contracts, annuity and endowment contracts, disability contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state, or other jurisdiction when the valuation complies with the minimum standard provided in this chapter.

(2) Sections 13 and 14 of this act apply to all policies and contracts issued on or after the operative date of the valuation manual.

Sec. 5. RCW 48.74.025 and 1993 c 462 s 85 are each amended to read as follows:

This section applies to actuarial opinions prior to the operative date of the valuation manual.

(1) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner by rule shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

(2) Actuarial analysis of reserves and assets supporting reserves.

(a) Every life insurance company, except as exempted by rule, shall also include in the opinion required under subsection (1) of this section an opinion as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(b) The commissioner may provide by rule for a transition period for establishing higher reserves that the qualified actuary may deem necessary in order to render the opinion required by this section.

(3) Each opinion required under subsection (2) of this section is governed by the following provisions:

(a) A memorandum, in form and substance acceptable to the commissioner as specified by rule, must be prepared to support each actuarial opinion.

(b) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by rule or if the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rules or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the commissioner.

(4) ((~~A memorandum in support of the opinion, and other material provided by the company to the commissioner in connection with it, must be kept confidential by the commissioner and may not be made public and is not subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of an action required by this section or by rules adopted under it. However, the commissioner may otherwise release the memorandum or other material (a) with the written consent of the company or (b) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum are no longer confidential.~~

(~~5) Each~~)) Every opinion required under this section is governed by the following provisions:

(a) The opinion must be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1994.

(b) The opinion applies to all business in force, including individual and group disability insurance, in form and substance acceptable to the commissioner as specified by rule.

(c) The opinion must be based on standards adopted ((~~by the commissioner, who in setting the standards shall give due regard to the standards established~~)) from time to time by the actuarial standards board ((~~or its successors~~)) and on such additional standards as the commissioner may prescribe by rule.

(d) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(e) For purposes of this section, "qualified actuary" means a ((~~person who meets qualifications set by the commissioner with due regard to the~~

~~qualifications established for membership in~~)) member in good standing of the American Academy of Actuaries ((~~or its successors~~)) who meets the requirements set forth in rules adopted by the commissioner.

(f) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(g) Rules adopted by the commissioner shall define disciplinary action by the commissioner against the company or the qualified actuary.

NEW SECTION. **Sec. 6.** A new section is added to chapter 48.74 RCW to read as follows:

This section applies to actuarial opinions of reserves after the operative date of the valuation manual.

(1) Every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and subject to regulation by the commissioner must annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The valuation manual will prescribe the specifics of this opinion including any items deemed to be necessary to its scope.

(2) Every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and subject to regulation by the commissioner, except as exempted in the valuation manual, must also annually include in the opinion required by subsection (1) of this section, an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(3) Each opinion required by this section is governed by the following:

(a) A memorandum, in form and substance as specified in the valuation manual, and acceptable to the commissioner, must be prepared to support each actuarial opinion.

(b) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.

(4) Every opinion under this section is governed by the following:

(a) The opinion must be in form and substance as specified in the valuation manual and acceptable to the commissioner.

(b) The opinion must be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after the operative date of the valuation manual.

(c) The opinion must apply to all policies and contracts subject to this section, plus other actuarial liabilities as may be specified in the valuation manual.

(d) The opinion must be based on standards adopted from time to time by the actuarial standards board or its successor, and on the additional standards as may be prescribed in the valuation manual.

(e) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(f) Except in cases of fraud or willful misconduct, the appointed actuary is not liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the appointed actuary's opinion.

(g) Disciplinary action by the commissioner against the company or the appointed actuary must be defined in rule by the commissioner.

NEW SECTION. **Sec. 7.** A new section is added to chapter 48.74 RCW to read as follows:

(1)(a) The opinion and memorandum in support of the opinion submitted to the commissioner under RCW 48.74.025 are confidential and privileged, are exempt from disclosure pursuant to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action, only if and to the extent that the opinion and memorandum supporting the opinion independently qualify for exemption from disclosure as documents, materials, or information in the possession of the commissioner pursuant to a financial conduct examination.

(b) If independently qualifying for exemption from disclosure, as provided in (a) of this subsection, the provisions of RCW 48.02.065 apply to the opinion and memorandum in support of the opinion to the same extent as documents, materials, and information in possession of the commissioner pursuant to a financial conduct examination.

(2) In addition to the provisions of RCW 48.02.065, (a) through (c) of this subsection apply to the opinion and memorandum in support of the opinion submitted to the commissioner under RCW 48.74.025.

(a) A memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this section or by rules adopted under this section.

(b) A memorandum or other material may otherwise be released by the commissioner with the written consent of the company or to the American academy of actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and

setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

(c) Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum are no longer confidential.

(3) Included in those agencies or organizations with which the commissioner may share the opinion and memorandum in support of the opinion, as provided in this section and RCW 48.02.065, is the office of the attorney general for purposes of investigating any consumer protection or antitrust action.

Sec. 8. RCW 48.74.030 and 1993 c 462 s 86 are each amended to read as follows:

(1) Except as ((~~otherwise~~)) provided in subsections (2) and (3) of this section, or in RCW 48.74.090, the minimum standard for the valuation of all such policies and contracts issued prior to July 10, 1982, shall be that provided by the laws in effect immediately prior to such date. Except as otherwise provided in subsections (2) and (3) of this section, or in RCW 48.74.090, the minimum standard for the valuation of all such policies and contracts issued on or after July 10, 1982, shall be the commissioner's reserve valuation methods defined in RCW 48.74.040, 48.74.070, and 48.74.090, three and one-half percent interest, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after July 16, 1973, four percent interest for such policies issued prior to September 1, 1979, five and one-half percent interest for single premium life insurance policies and four and one-half percent interest for all other such policies issued on and after September 1, 1979, and the following tables:

(a) For ((~~all~~)) ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the commissioner's 1941 standard ordinary mortality table for such policies issued prior to the operative date of RCW ((~~48.23.350(5a)~~)) 48.76.050(5) and the commissioner's 1958 standard ordinary mortality table for such policies issued on or after such operative date and prior to the operative date of RCW 48.76.050(((~~(4)~~))) (5), except that for any category of such policies issued on female risks, all modified net premiums and present values referred to in this chapter may be calculated according to an age not more than six years younger than the actual age of the insured; and for such policies issued on or after the operative date of RCW 48.76.050(((~~(4)~~))) (7):

(i) The commissioner's 1980 standard ordinary mortality table; ((~~or~~))

(ii) At the election of the company for any one or more specified plans of life insurance, the commissioner's 1980 standard ordinary mortality table with ten-year select mortality factors; or

(iii) Any ordinary mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies—the 1941 standard industrial mortality table for such policies issued prior to the operative

date of RCW ((~~48.23.350(5b)~~)) 48.76.050(6), and for such policies issued on or after such operative date of RCW 48.76.050(6), the commissioner's 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by rule of the commissioner for use in determining the minimum standard of valuation for such policies.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the 1937 standard annuity mortality table or, at the option of the company, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the group annuity mortality table for 1951, any modification of such table approved by the commissioner, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the class (3) disability table (1926); and for policies issued prior to January 1, 1961, the class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies—for policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the intercompany double indemnity mortality table; and for policies issued prior to January 1, 1961, the intercompany double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits—such tables as may be approved by the commissioner.

(2) Except as provided in subsection (3) of this section, the minimum standard ((~~for the~~)) valuation ((~~of all~~)) for individual annuity and pure endowment contracts issued on or after July 10, 1982, and for all annuities and pure endowments purchased on or after such effective date under group annuity

and pure endowment contracts, shall be the commissioner's reserve valuation methods defined in RCW 48.74.040 and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued before September 1, 1979, excluding any disability and accidental death benefit in such contracts—the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner, and six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts.

(b) For individual single premium immediate annuity contracts issued on or after September 1, 1979, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and seven and one-half percent interest.

(c) For individual annuity and pure endowment contracts issued on or after September 1, 1979, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other such individual annuity and pure endowment contracts.

(d) For all annuities and pure endowments purchased prior to September 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts—the 1971 group annuity mortality table, or any modification of this table approved by the commissioner, and six percent interest.

(e) For all annuities and pure endowments purchased on or after September 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts—the 1971 group annuity mortality table or any group annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the commissioner, and seven and one-half percent interest.

After July 16, 1973, any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1979, which shall be the operative date of this section for such company. If a company makes no such election, the operative date of this section for such company shall be January 1, 1979.

(3)(a) The interest rates used in determining the minimum standard for the valuation of:

(i) ((~~All~~)) Life insurance policies issued in a particular calendar year, on or after the operative date of RCW 48.76.050(((~~(4)~~))) (7);

(ii) ((~~All~~)) Individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982;

(iii) ((~~All~~)) Annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts; and

(iv) The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation interest rates as defined in this section.

(b) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of one percent:

(i) For life insurance:

$I = .03 + W (R_1 - .03) + W/2 (R_2 - .09)$;

(ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

$I = .03 + W (R - .03)$

where R_1 is the lesser of R and .09,

R_2 is the greater of R and .09,

R is the reference interest rate defined in this section, and

W is the weighting factor defined in this section;

(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in (b)(ii) of this ((~~subparagraph~~)) subsection, the formula for life insurance stated in (b)(i) of this ((~~subparagraph~~)) subsection shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten years and the formula for single premium immediate annuities stated in (b)(ii) of this ((~~subparagraph~~)) subsection shall apply to annuities and guaranteed interest contracts with guarantee duration of ten years or less;

(iv) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in (b)(ii) of this ((~~subparagraph~~)) subsection shall apply;

(v) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in (b)(ii) of this ((~~subparagraph~~)) subsection shall apply.

(c) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1983 using the reference interest rate defined for 1982 and shall be determined for each

subsequent calendar year regardless of when RCW 48.76.050(((~~(4)~~))) (7) becomes operative.

(d) The weighting factors referred to in the formulas stated in ((~~subparagraph~~)) (b) of this subsection are given in the following tables:

(i) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

(ii) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options: .80;

(iii) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in (d)(ii) of this ((~~subparagraph~~)) subsection, shall be as specified in (d)(iii)(A), (B), and (C) of this subsection, according to the rules and definitions in (d)(iii)(D), (E), and (F) of this subsection:

(A) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

(B) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (d)(iii)(A) of this subsection increased by:

Plan Type A	B	C
.15	.25	.05

(C) For annuities and guaranteed interest contracts valued on an issue year basis other than those with no cash settlement options which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the factors shown in (d)(iii)(A) of this subsection or derived in (d)(iii)(B) of this subsection increased by:

Plan Type		
A	B	C
.05	.05	.05

(D) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(E) Plan type as used in the tables in (d)(iii)(A), (B), and (C) of this subsection is defined as follows:

Plan Type A: At any time a policyholder may withdraw funds only: (1) With an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) without such adjustment but in installments over five years or more; or (3) as an immediate life annuity; or (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, a policyholder may withdraw funds only: (1) With adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) without such adjustment but in installments over five years or more; or (3) no withdrawal permitted. At the end of the interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years.

Plan Type C: A policyholder may withdraw funds before expiration of the interest rate guarantee in a single sum or installments over less than five years either: (1) Without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(F) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this section, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract. The change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(e) The reference interest rate referred to in ((~~subparagraphs~~)) (b) and (c) of this subsection is defined as follows:

(i) For ((~~all~~)) life insurance, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30th of the calendar year next preceding the year of issue, of ((~~Moody's corporate~~

~~bond yield average—monthly average corporates~~)) the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve months, ending on June 30th of the calendar year of issue or year of purchase of ((~~Moody's corporate bond yield average—monthly average corporates~~)) the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (e)(ii) of this ((~~subparagraph~~)) subsection, with guarantee duration in excess of ten years, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30th of the calendar year of issue or purchase, of ((~~Moody's corporate bond yield average—~~)) the monthly average ((~~corporates~~)) of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (e)(ii) of this ((~~subparagraph~~)) subsection, with guarantee duration of ten years or less, the average over a period of twelve months, ending on June 30th of the calendar year of issue or purchase, of ((~~Moody's corporate bond yield average—~~)) the monthly average ((~~corporates~~)) of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(v) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve months, ending on June 30th of the calendar year of issue or purchase, of ((~~Moody's corporate bond yield average—~~)) the monthly average ((~~corporates~~)) of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(vi) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in (e)(ii) of this ((~~subparagraph~~)) subsection, the average over a period of twelve months, ending on June 30th of the calendar year of the change in the fund, of ((~~Moody's corporate bond yield average—~~)) the monthly average ((~~corporates~~)) of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(f) If ((~~Moody's corporate bond yield average—~~)) the monthly average ((~~corporates~~)) of the composite yield on seasoned corporate bonds is no longer published by Moody's Investors Service, Inc., or if the national association of insurance commissioners determines that ((~~Moody's corporate bond yield average—~~)) the monthly average ((~~corporates~~)) of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the national association of insurance commissioners and approved by rule adopted by the commissioner, may be substituted.

Sec. 9. RCW 48.74.050 and 1993 c 462 s 88 are each amended to read as follows:

(1) In no event may a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after July 10, 1982, be less than the aggregate reserves calculated in accordance with the methods set forth in RCW 48.74.040, 48.74.070, and 48.74.080 and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(2) In no event may the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the ((~~qualified~~)) appointed actuary to be necessary to render the opinion required under RCW 48.74.025 and section 6 of this act.

Sec. 10. RCW 48.74.060 and 1993 c 462 s 89 are each amended to read as follows:

(1) Reserves for all policies and contracts issued prior to ((~~the operative date of this chapter~~)) July 10, 1982, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(2) Reserves for any category of policies, contracts, or benefits as established by the commissioner, issued on or after July 10, 1982, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be ((~~higher~~)) greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided ((~~therein~~)) in the policies or contracts.

((~~Any such~~)) (3) A company which adopts at any time ((~~has adopted~~)) any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard ((~~herein provided~~)) under this chapter may, adopt a lower standard of valuation with the approval of the commissioner, ((~~adopt any lower standard of valuation,~~)) but not lower than the minimum ((~~herein~~)) provided. For the purposes of this section, the holding of additional reserves previously determined by ((~~a qualified~~)) the appointed actuary to be necessary to render the opinion required under RCW 48.74.025 and section 6 of this act is not to be the adoption of a higher standard of valuation.

Sec. 11. RCW 48.74.070 and 1982 1st ex.s. c 9 s 7 are each amended to read as follows:

If in any contract year the gross premium charged by ((~~any life insurance~~)) a company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The

minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in RCW 48.74.030 (1) and (3): PROVIDED, That for any life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this section shall be applied as if the method actually used in calculating the reserve for such policy were the method described in RCW 48.74.040, ignoring the second paragraph of that section. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with RCW 48.74.040, including the second paragraph of that section, and the minimum reserve calculated in accordance with this section.

Sec. 12. RCW 48.74.090 and 1993 c 462 s 90 are each amended to read as follows:

((~~The commissioner shall adopt rules containing the minimum standards applicable to the valuation of disability insurance.~~)) For disability insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under section 4 of this act. For disability insurance contracts issued on or after July 10, 1982, and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the commissioner by rule.

NEW SECTION. **Sec. 13.** A new section is added to chapter 48.74 RCW to read as follows:

(1) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under section 4 of this act, except as provided under subsection (5) or (7) of this section.

(2) The operative date of the valuation manual is January 1st of the first calendar year following the first July 1st as of which all of the following have occurred:

(a) The valuation manual has been adopted by the NAIC by an affirmative vote of at least forty-two members, or three-fourths of the members voting, whichever is greater.

(b) The standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five percent of the direct premiums written as reported in the following annual statements submitted for 2008: Life, accident and health annual statements, health annual statements, or fraternal annual statements.

(c) The standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two of the following fifty-five jurisdictions: The fifty states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

(3) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual are effective on January 1st following the date when all of the following have occurred: The change to the valuation manual has been adopted by the NAIC by an affirmative vote representing:

(a) At least three-fourths of the members of the NAIC voting, but not less than a majority of the total membership; and

(b) Members of the NAIC representing jurisdictions totaling greater than seventy-five percent of the direct premiums written as reported in the following annual statements most recently available prior to the vote in (a) of this subsection: Life, accident and health annual statements, health annual statements, or fraternal annual statements.

(4) The valuation manual must specify all of the following:

(a) Minimum valuation standards for and definitions of the policies or contracts subject to section 4 of this act. Such minimum valuation standards shall be:

(i) The commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to section 4 of this act;

(ii) The commissioners annuity reserve valuation method for annuity contracts subject to section 4 of this act; and

(iii) Minimum reserves for all other policies or contracts subject to section 4 of this act;

(b) Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in section 14(1) of this act and the minimum valuation standards consistent with those requirements;

(c) For policies and contracts subject to a principle-based valuation under section 14 of this act:

(i) Requirements for the format of reports to the commissioner under section 14(2)(c) of this act which must include information necessary to determine if the valuation is appropriate and in compliance with this chapter;

(ii) Assumptions must be prescribed for risks over which the company does not have significant control or influence; and

(iii) Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures;

(d) For policies not subject to a principle-based valuation under section 14 of this act, the minimum valuation standard must either:

(i) Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or

(ii) Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring;

(e) Other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules, and internal controls; and

(f) The data and form of the data required under section 15 of this act, with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.

(5) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with this chapter, then the company must, with respect to such requirements, comply with minimum valuation standards prescribed by the commissioner by rule.

(6) The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this chapter. The commissioner may rely upon the opinion, regarding provisions contained within this chapter, of a qualified actuary engaged by the commissioner of another state, district, or territory of the United States. As used in this subsection, "engage" includes employment and contracting.

(7) The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary in order to comply with the requirements of the valuation manual or this chapter; and the company must adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted under this title.

NEW SECTION. **Sec. 14.** A new section is added to chapter 48.74 RCW to read as follows:

(1) A company must establish reserves, consistent withthe commissioner's superseding authority to establish reservespursuant to section 13(7) of this act, using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:

(a) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, valuations must reflect conditions appropriately adverse to quantify the tail risk.

(b) Incorporate assumptions, risk analysis methods, and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods.

(c) Incorporate assumptions that are derived in one of the following manners:

(i) The assumption is prescribed in the valuation manual.

(ii) For assumptions that are not prescribed, the assumptions must:

(A) Be established utilizing the company's available experience, to the extent it is relevant and statistically credible; or

(B) To the extent that company data is not available, relevant, or statistically credible, be established utilizing other relevant, statistically credible experience.

(d) Provide margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

(2) A company using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual must:

(a) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual.

(b) Provide to the commissioner and the board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. These controls must be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification must be based on the controls in place as of the end of the preceding calendar year.

(c) Develop, and file with the commissioner upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

(3) A principle-based valuation may include a prescribed formulaic reserve component.

NEW SECTION. **Sec. 15.** A new section is added to chapter 48.74 RCW to read as follows:

A company must submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

NEW SECTION. **Sec. 16.** A new section is added to chapter 48.74 RCW to read as follows:

(1) For purposes of this section, "confidential information" means:

(a) A memorandum in support of an opinion submitted under RCW 48.74.025 and section 6 of this act and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such memorandum;

(b) All documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in the course of an examination made under section 13(6) of this act. However, if an examination report or other material prepared in connection with an examination made under chapter 48.03 RCW is not held as private and confidential information, an examination report or other material prepared in connection with an examination made under section 13(6) of this act is not "confidential information" to the same extent as if such examination report or other material had been prepared under chapter 48.03 RCW;

(c) Any reports, documents, materials, and other information developed by a company in support of, or in connection with, an annual certification by the company under section 14(2)(b) of this act evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such reports, documents, materials, and other information;

(d) Any principle-based valuation report developed under section 14(2)(c) of this act and any other documents, materials, and other information, including,

but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such report; and

(e) Any documents, materials, data, and other information submitted by a company under section 15 of this act (collectively, "experience data") and any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data, in each case that include any potentially company identifying or personally identifiable information, that is provided to or obtained by the commissioner (together with any "experience data," the "experience materials") and any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such experience materials.

(2)(a) Except as provided in this section, a company's confidential information is confidential by law and privileged, is not subject to chapter 42.56 RCW, is not subject to subpoena, and is not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the commissioner's official duties.

(b) Neither the commissioner nor any person who received confidential information while acting under the authority of the commissioner is permitted or required to testify in any private civil action concerning any confidential information.

(c) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential information:

(i) With other state, federal, and international regulatory agencies and with the NAIC and its affiliates and subsidiaries;

(ii) In the case of confidential information specified in subsection (1)(a) and (d) of this section only, with the actuarial board for counseling and discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials;

(iii) In the case of (c)(i) and (ii) of this subsection, when the recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data, and other information in the same manner and to the same extent as required for the commissioner.

(d) The commissioner may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the actuarial board for counseling and discipline or its successor and shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, data, or other information.

(e) The commissioner may enter into agreements governing sharing and use of information consistent with this subsection (2).

(f) No waiver of any applicable privilege or claim of confidentiality in the confidential information may occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in (c) of this subsection.

(g) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subsection (2) is available and shall be enforced in any proceeding in, and in any court of, this state.

(h) In this section "regulatory agency," "law enforcement agency," and the "NAIC" include, but are not limited to, their employees, agents, consultants, and contractors.

(3) Notwithstanding subsection (2) of this section, any confidential information specified in subsection (1)(a) and (d) of this section:

(a) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under RCW 48.74.025 and section 6 of this act or principle-based valuation report developed under section 14(2)(c) of this act by reason of an action required by this chapter or by rules adopted under this chapter;

(b) May otherwise be released by the commissioner with the written consent of the company; and

(c) Once any portion of a memorandum in support of an opinion submitted under RCW 48.74.025 and section 6 of this act or a principle-based valuation report developed under section 14(2)(c) of this act is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report are no longer confidential.

Sec. 17. RCW 48.76.010 and 1982 1st ex.s. c 9 s 10 are each amended to read as follows:

(1) This chapter may be known and cited as the standard nonforfeiture law for life insurance.

(2) As used in this chapter((~~,~~)):

(a) "NAIC" means the national association of insurance commissioners.

(b) "Operative date of the valuation manual" means the January 1st of the first calendar year that the valuation manual as defined in chapter 48.74 RCW is effective.

Sec. 18. RCW 48.76.050 and 1982 1st ex.s. c 9 s 14 are each amended to read as follows:

(1)(((~~(a)~~))) This ((~~subsection~~)) section does not apply to policies issued on or after the operative date of subsection (((~~(4)~~))) (7) of this section. Except as provided in ((~~subparagraph (c) of this~~)) subsection (3) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts stated in the policy as extra premiums to cover impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

(((~~(i)~~))) (a) The then present value of the future guaranteed benefits provided for by the policy;

((~~(ii)~~)) (b) Two percent of the amount of insurance, if the insurance is uniform in amount, or of the equivalent uniform amount, as ((~~hereinafter~~)) defined, if the amount of insurance varies with duration of the policy;

((~~(iii)~~)) (c) Forty percent of the adjusted premium for the first policy year;

((~~(iv)~~)) (d) Twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less((~~: PROVIDED, That~~)).

However, in applying the percentages specified in ((~~subparagraph (a)(iii) and (iv)~~)) (c) and (d) of this subsection, no adjusted premium shall be deemed to exceed four percent of the amount of insurance or level amount equivalent thereto. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

((~~(b)~~)) (2) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent level amount thereof for the purpose of this section shall be deemed to be the level amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the inception of the insurance as the benefits under the policy: PROVIDED HOWEVER, That in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten.

((~~(c)~~)) (3) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to:

((~~(i)~~)) (a) The adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by

((~~(ii)~~)) (b) The adjusted premiums for such term insurance, with((~~subparagraph (c)(i) and (ii)~~)) (a) and (b) of this subsection being calculated separately and as specified in ((~~subparagraphs (a) and (b) of this subsection~~)) subsections (1) and (2) of this section except that, for the purposes of ((~~subparagraph (a)(ii), (a)(iii), and (a)(iv) of this subsection~~)) subsection (1)(b), (c), and (d) of this section, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in ((~~subparagraph (c)(ii) of this~~)) (b) of this subsection shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in ((~~subparagraph (c)(i) of this~~)) (a) of this subsection.

((~~(d)~~)) (4) Except as otherwise provided in subsections ((~~(2)~~)) (5) and ((~~(3)~~)) (6) of this section, all adjusted premiums and present values referred to in this chapter shall for all policies of ordinary insurance be calculated on the basis of the commissioner's 1941 standard ordinary mortality table: PROVIDED, That for any category of ordinary insurance issued on female risks on or after July 1, 1957, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured and such calculations for all policies of industrial insurance shall be made on the basis of

the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits: PROVIDED, That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty percent of the rates of mortality according to such applicable table: PROVIDED, FURTHER, That for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

((~~(2)~~)) (5) This subsection does not apply to ordinary policies issued on or after the operative date of subsection ((~~(4)~~)) (7) of this section. In the case of ordinary policies issued on or after the operative date of this section, all adjusted premiums and present values referred to in this chapter shall be calculated on the basis of the commissioner's 1958 standard ordinary mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half percent per annum except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after July 16, 1973, and before September 1, 1979, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after September 1, 1979, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent per annum may be used and provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured: PROVIDED, That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioner's 1958 extended term insurance table: PROVIDED FURTHER, That for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

After June 11, 1959, any company may file with the commissioner a written notice of its election to comply with the provisions of this section. After the filing of such notice, then upon such specified date (which shall be the operative date of this section for such company), this subsection shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be January 1, 1966.

((~~(3)~~)) (6) This subsection does not apply to industrial policies issued on or after the operative date of subsection ((~~(4)~~)) (7) of this section. In the case of industrial policies issued on or after the operative date of this chapter, all adjusted premiums and present values referred to in this chapter shall be calculated on the basis of the commissioner's 1961 standard industrial mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall

not exceed three and one-half percent per annum, except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after July 16, 1973, and prior to September 1, 1979, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after September 1, 1979, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent per annum may be used: PROVIDED, That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioner's 1961 industrial extended term insurance table: PROVIDED FURTHER, That for insurance issued on a substandard basis, the calculations of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

After July 10, 1982, any company may file with the commissioner a written notice of its election to comply with the provisions of this section. After the filing of such notice, then upon such specified date (which shall be the operative date of this section for such company), this subsection shall become operative with respect to the industrial policies thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be January 1, 1968.

((~~(4)~~)) (7)(a) This ((~~section~~)) subsection applies to all policies issued on or after the operative date of this subsection as defined herein. Except as provided in ((~~subparagraph~~)) (g) of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of: (i) The then present value of the future guaranteed benefits provided for by the policy; (ii) one percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and (iii) one hundred twenty-five percent of the nonforfeiture net level premium as defined in ((~~subparagraph~~)) (b) of this subsection: PROVIDED, That in applying the percentage specified in (a)(iii) of this ((~~subparagraph~~)) subsection no nonforfeiture net level premium shall be deemed to exceed four percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

(b) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(c) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for

changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(d) Except as otherwise provided in ((~~subparagraph~~)) (g) of this subsection, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of:

(i) The sum of

(A) The then present value of the then future guaranteed benefits provided for by the policy, and

(B) The additional expense allowance, if any, over

(ii) The then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(e) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of:

(i) One percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and

(ii) One hundred twenty-five percent of the increase, if positive, in the nonforfeiture net level premium.

(f) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (i) by (ii) where:

(i) Equals the sum of:

(A) The nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred; and

(B) The present value of the increase in future guaranteed benefits provided for by the policy; and

(ii) Equals the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(g) Notwithstanding any other provisions of this section to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same

tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(h) All adjusted premiums and present values referred to in this chapter shall for all policies of ordinary insurance be calculated on the basis of the commissioner's 1980 standard ordinary mortality table or at the election of the company for any one or more specified plans of life insurance, the commissioner's 1980 standard ordinary mortality table with ten-year select mortality factors, shall for all policies of industrial insurance be calculated on the basis of the commissioner's 1961 standard industrial mortality table, and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section, for policies issued in that calendar year, subject to the following provisions:

(i) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this section, for policies issued in the immediately preceding calendar year.

(ii) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by RCW 48.76.020, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(iii) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(iv) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioner's 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioner's 1961 industrial extended term insurance table for policies of industrial insurance.

(v) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

(vi) Any ordinary mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioner's 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioner's 1980 extended term insurance table.

(vii) Any industrial mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioner's 1961 standard industrial mortality table or the commissioner's 1961 industrial extended term insurance table.

(viii) For policies issued prior to the operative date of the valuation manual, any commissioner's standard ordinary mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by rules adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table.

For policies issued on or after the operative date of the valuation manual, the valuation manual must provide the commissioners standard mortality for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table. If the commissioner approves by rule any commissioners standard ordinary mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then the minimum nonforfeiture standard supersedes the minimum nonforteiture standard provided by the valuation manual.

(ix) For policies issued prior to the operative date of the valuation manual, any commissioners standard industrial mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table.

For policies issued on or after the effective date of the valuation manual, the valuation manual must provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table. If the commissioner approves by rule any commissioners standard industrial mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(i)(A) For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five percent of the calendar year statutory valuation interest rate for such policy as defined in the standard valuation law (chapter 48.74 RCW), rounded to the nearer one quarter of one percent. However, the nonforfeiture interest rate shall not be less than four percent.

(B) For policies issued on and after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year must be provided by the valuation manual.

(j) Notwithstanding any other provision in this title to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest

rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

(k) After July 10, 1982, any company may file with the commissioner a written notice of its election to comply with the ((~~provision[s]~~))provisions of this section after a specified date before January 1, 1989, which shall be the operative date of this section for such company. If a company makes no such election, the operative date of this section for such company shall be January 1, 1989.

Sec. 19. RCW 42.56.400 and 2015 c 122 s 13 and 2015 c 17 s 10 are each reenacted and amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30A.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, and 48.31B.035, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210;

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017;

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5); ((~~and~~

~~(23) [(24)]~~)) (24) Documents, materials, or information obtained by the insurance commissioner under chapter 48.05A RCW; and

(25) Documents, materials, or information obtained by the insurance commissioner under RCW 48.74.025, sections 6, 13(6), 14(2) (b) and (c), and 15 of this act to the extent such documents, materials, or information independently qualify for exemption from disclosure as documents, materials, or information in possession of the commissioner pursuant to a financial conduct examination and exempt from disclosure under RCW 48.02.065.

Sec. 20. RCW 42.56.400 and 2015 c 122 s 14 and 2015 c 17 s 11 are each reenacted and amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30A.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, and 48.31B.035, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210;

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017; ((~~and~~))

(23) Documents, materials, or information obtained by the insurance commissioner under chapter 48.05A RCW; and

(24) Documents, materials, or information obtained by the insurance commissioner under RCW 48.74.025, sections 6, 13(6), 14(2) (b) and (c), and 15 of this act to the extent such documents, materials, or information independently qualify for exemption from disclosure as documents, materials, or information in possession of the commissioner pursuant to a financial conduct examination and exempt from disclosure under RCW 48.02.065.

NEW SECTION. **Sec. 21.** Sections 1 through 19 of this act take effect January 1, 2017.

NEW SECTION. **Sec. 22.** Section 19 of this act expires July 1, 2017.

NEW SECTION. **Sec. 23.** Section 20 of this act takes effect July 1, 2017.

Passed by the Senate March 9, 2016.

Passed by the House March 8, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.

CHAPTER 143

[Senate Bill 5581]

GROUP LIFE AND DISABILITY INSURANCE--NONINSURANCE BENEFITS

AN ACT Relating to the benefits of group life and disability insurance policies; amending RCW 48.24.280; and adding a new section to chapter 48.21 RCW.

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

Sec. 1. RCW 48.24.280 and 2009 c 76 s 2 are each amended to read as follows:

(1) A life insurer may include the following noninsurance benefits as part of a policy or certificate of group life insurance, with the prior approval of the commissioner:

(a) Will preparation services;

(b) Financial planning and estate planning services;

(c) Probate and estate settlement services; ((~~and~~))

(d) Grief counseling; and

(e) Such other services as the commissioner may identify by rule.

(2) The commissioner may adopt rules to regulate the disclosure of noninsurance benefits permitted under this section, including but not limited to guidelines regarding the coverage provided under the policy or certificate of insurance.

(3) Those providing the services listed in subsection (1) of this section must be appropriately licensed.

(4) This section does not require the commissioner to approve any particular proposed noninsurance benefit. The commissioner may disapprove any proposed noninsurance benefit that the commissioner determines may tend to promote or facilitate the violation of any other section of this title.

(5) This section does not expand, limit, or otherwise affect the authority and ethical obligations of those who are authorized by the state supreme court to practice law in this state. This section does not limit the prohibition against the unauthorized practice of law under chapter 2.48 RCW.

(6) This section does not affect the application of chapter 21.20 RCW.

NEW SECTION. **Sec. 2.** A new section is added to chapter 48.21 RCW to read as follows:

(1) A disability insurer may include the following noninsurance benefits as part of a policy or certificate of group disability insurance, with the prior approval of the commissioner and where such benefits bear a reasonable relationship to the disability insurance with which they are intended to be offered:

(a) Will preparation services;

(b) Financial planning and estate planning services;

(c) Probate and estate settlement services;

(d) Grief counseling; and

(e) Such other services as the commissioner may identify by rule.

(2) The commissioner may adopt rules to regulate the disclosure of noninsurance benefits permitted under this section, including but not limited to guidelines regarding the coverage provided under the policy or certificate of insurance.

(3) Those providing the services listed in subsection (1) of this section must be appropriately licensed.

(4) This section does not require the commissioner to approve any particular proposed noninsurance benefit. The commissioner may disapprove any proposed noninsurance benefit that the commissioner determines may tend to promote or facilitate the violation of any other section of this title.

(5) This section does not expand, limit, or otherwise affect the authority and ethical obligations of those who are authorized by the state supreme court to practice law in this state. This section does not limit the prohibition against the unauthorized practice of law under chapter 2.48 RCW.

(6) This section does not affect the application of chapter 21.20 RCW.

(7) This section does not affect wellness programs as described in RCW 48.30.140(6).

Passed by the Senate February 5, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 144

[Substitute Senate Bill 5597]

REAL ESTATE APPRAISERS--LICENSURE--LICENSE IN OTHER STATE

AN ACT Relating to real estate appraisers; and amending RCW 18.140.010 and 18.140.120.

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

Sec. 1. RCW 18.140.010 and 2005 c 339 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) "Appraisal" means the act or process of estimating value; an estimate of value; or of or pertaining to appraising and related functions.

(2) "Appraisal report" means any communication, written or oral, of an appraisal, review, or consulting service in accordance with the standards of professional conduct or practice, adopted by the director, that is transmitted to the client upon completion of an assignment.

(3) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the value of specified interests in, or aspects of, identified real estate. The term "appraisal assignment" may apply to valuation work and analysis work.

(4) "Brokers price opinion" means an oral or written report of property value that is prepared by a real estate broker or salesperson licensed under chapter 18.85 RCW.

(5) "Client" means any party for whom an appraiser performs a service.

(6) "Commission" means the real estate appraiser commission of the state of Washington.

(7) "Comparative market analysis" means a brokers price opinion.

(8) "Department" means the department of licensing.

(9) "Director" means the director of the department of licensing.

(10) "Expert review appraiser" means a state-certified or state-licensed real estate appraiser chosen by the director for the purpose of providing appraisal review assistance to the director.

(11) "Federal department" means an executive department of the United States of America specifically concerned with housing finance issues, such as the department of housing and urban development, the department of veterans affairs, or their legal federal successors.

(12) "Federal financial institutions regulatory agency" means the board of governors of the federal reserve system, the federal deposit insurance corporation, the office of the comptroller of the currency, ((~~the office of thrift supervision,~~)) the national credit union administration, their successors and/or such other agencies as may be named in future amendments to 12 U.S.C. Sec. 3350(6).

(13) "Federal secondary mortgage marketing agency" means the federal national mortgage association, the government national mortgage association, the federal home loan mortgage corporation, their successors and/or such other similarly functioning housing finance agencies as may be federally chartered in the future.

(14) "Federally related transaction" means any real estate-related financial transaction that the federal financial institutions regulatory agency or the resolution trust corporation engages in, contracts for, or regulates; and that requires the services of an appraiser.

(15) "Financial institution" means any person doing business under the laws of this state or the United States relating to banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, consumer loan companies, and the affiliates, subsidiaries, and service corporations thereof.

(16) "Mortgage broker" for the purpose of this chapter means a mortgage broker licensed under chapter 19.146 RCW, any mortgage broker approved and subject to audit by the federal national mortgage association, the government national mortgage association, or the federal home loan mortgage corporation as provided in RCW 19.146.020, any mortgage broker approved by the United States secretary of housing and urban development for participation in any mortgage insurance under the national housing act, 12 U.S.C. Sec. 1201, and the affiliates, subsidiaries, and service corporations thereof.

(17) "Real estate" means an identified parcel or tract of land, including improvements, if any.

(18) "Real estate-related financial transaction" means any transaction involving:

(a) The sale, lease, purchase, investment in, or exchange of real property, including interests in property, or the financing thereof;

(b) The refinancing of real property or interests in real property; and

(c) The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(19) "Real property" means one or more defined interests, benefits, or rights inherent in the ownership of real estate.

(20) "Review" means the act or process of critically studying an appraisal report prepared by another.

(21) "Specialized appraisal services" means all appraisal services that do not fall within the definition of appraisal assignment. The term "specialized appraisal service" may apply to valuation work and to analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion, the work is classified as an appraisal assignment and not a specialized appraisal service.

(22) "State-certified general real estate appraiser" means a person certified by the director to develop and communicate real estate appraisals of all types of property. A state-certified general real estate appraiser may designate or identify an appraisal rendered by him or her as a "certified appraisal."

(23) "State-certified residential real estate appraiser" means a person certified by the director to develop and communicate real estate appraisals of all types of residential property of one to four units without regard to transaction value or complexity and nonresidential property having a transaction value as specified in rules adopted by the director. A state-certified residential real estate appraiser may designate or identify an appraisal rendered by him or her as a "certified appraisal."

(24) "State-licensed real estate appraiser" means a person licensed by the director to develop and communicate real estate appraisals of noncomplex one to four residential units and complex one to four residential units and nonresidential property having transaction values as specified in rules adopted by the director.

(25) "State-registered appraiser trainee," "trainee," or "trainee real estate appraiser" means a person registered by the director under RCW 18.140.280 to develop and communicate real estate appraisals under the immediate and personal direction of a state-certified real estate appraiser. Appraisals are limited to those types of properties that the supervisory appraiser is permitted by their current credential, and that the supervisory appraiser is competent and qualified to appraise. By signing the appraisal report, or being identified in the certification or addenda as having lent significant professional assistance, the state-registered appraiser trainee accepts total and complete individual responsibility for all content, analyses, and conclusions in the report.

(26) "Supervisory appraiser" means a person holding a currently valid certificate issued by the director as a state-certified real estate appraiser providing direct supervision to another state-certified, state-licensed, or state-registered appraiser trainee. The supervisory appraiser must be in good standing in each jurisdiction that he or she is credentialed. The supervisory appraiser must sign all appraisal reports. By signing the appraisal report, the supervisory appraiser accepts full responsibility for all content, analyses, and conclusions in the report.

Sec. 2. RCW 18.140.120 and 2005 c 339 s 9 are each amended to read as follows:

An applicant for certification or licensure who is currently certified or licensed and in good standing under the laws of another state may obtain a certificate or license as a Washington state-certified or state-licensed real estate appraiser without being required to satisfy the examination requirements of this chapter if((:)) the director determines that ((~~the certification or licensure requirements are substantially similar to those found in Washington state; and~~

~~that the other state has a written reciprocal agreement to provide similar treatment to holders of Washington state certificates and/or licenses~~)); The appraiser licensing and certification program of the other state is in compliance with 12 U.S.C. Secs. 3331-3355, as existed on the effective date of this section, or such subsequent date as the director may provide by rule, consistent with the purposes of this section; and the other state's requirements for certification or licensing meet or exceed the licensure standards established in this chapter.

Passed by the Senate February 15, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 145

[Substitute Senate Bill 5670]

UNIVERSAL COMMUNICATIONS SERVICES PROGRAM--EXPENDITURE LIMIT--CARRY OVER

AN ACT Relating to clarifying expenditures under the state universal communications services program; and amending RCW 80.36.650.

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

Sec. 1. RCW 80.36.650 and 2013 2nd sp.s. c 8 s 203 are each amended to read as follows:

(1) A state universal communications services program is established. The program is established to protect public safety and welfare under the authority of the state to regulate telecommunications under Article XII, section 19 of the state Constitution. The purpose of the program is to support continued provision of basic telecommunications services under rates, terms, and conditions established by the commission during the time over which incumbent communications providers in the state are adapting to changes in federal universal service fund and intercarrier compensation support.

(2) Under the program, eligible communications providers may receive distributions from the universal communications services account created in RCW 80.36.690 in exchange for the affirmative agreement to provide continued services under the rates, terms, and conditions established by the commission under this chapter for the period covered by the distribution. The commission must implement and administer the program under terms and conditions established in RCW 80.36.630 through 80.36.690. Expenditures for the program may not exceed five million dollars per fiscal year; provided, however, that if less than five million dollars is expended in any fiscal year, the unexpended portion must be carried over to subsequent fiscal years and, unless fully expended, must be available for program expenditures in such subsequent fiscal years in addition to the five million dollars allotted for each of those subsequent fiscal years.

(3) A communications provider is eligible to receive distributions from the account if:

(a) The communications provider is: (i) An incumbent local exchange carrier serving fewer than forty thousand access lines in the state; or (ii) a radio communications service company providing wireless two-way voice

communications service to less than the equivalent of forty thousand access lines in the state. For purposes of determining the access line threshold in this subsection, the access lines or equivalents of all affiliates must be counted as a single threshold, if the lines or equivalents are located in Washington;

(b) The customers of the communications provider are at risk of rate instability or service interruptions or cessations absent a distribution to the provider that will allow the provider to maintain rates reasonably close to the benchmark; and

(c) The communications provider meets any other requirements established by the commission pertaining to the provision of communications services, including basic telecommunications services.

(4)(a) Distributions to eligible communications providers are based on a benchmark established by the commission. The benchmark is the rate the commission determines to be a reasonable amount customers should pay for basic residential service provided over the incumbent public network. However, if an incumbent local exchange carrier is charging rates above the benchmark for the basic residential service, that provider may not seek distributions from the fund for the purpose of reducing those rates to the benchmark.

(b) To receive a distribution under the program, an eligible communications provider must affirmatively consent to continue providing communications services to its customers under rates, terms, and conditions established by the commission pursuant to this chapter for the period covered by the distribution.

(5) The program is funded from amounts deposited by the legislature in the universal communications services account established in RCW 80.36.690. The commission must operate the program within amounts appropriated for this purpose and deposited in the account.

(6) The commission must periodically review the accounts and records of any communications provider that receives distributions under the program to ensure compliance with the program and monitor the providers' use of the funds.

(7) The commission must establish an advisory board, consisting of a reasonable balance of representatives from different types of communications providers and consumers, to advise the commission on any rules and policies governing the operation of the program.

(8) The program terminates on June 30, 2019, and no distributions may be made after that date.

(9) This section expires July 1, 2020.

Passed by the Senate February 17, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 146

[Substitute Senate Bill 5778]

AMBULATORY SURGICAL FACILITIES--LICENSURE AND REGULATION

AN ACT Relating to ambulatory surgical facilities; amending RCW 43.70.250, 70.230.020, 70.230.050, and 70.230.100; adding a new section to chapter 48.39 RCW; adding a new section to chapter 70.230 RCW; creating a new section; repealing RCW 70.230.180; and providing an expiration date.

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

Sec. 1. RCW 43.70.250 and 2013 c 77 s 2 are each amended to read as follows:

(1) It shall be the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business.

(2) The secretary shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations, or businesses administered by the department. In fixing said fees, the secretary shall set the fees for each program at a sufficient level to defray the costs of administering that program and the cost of regulating licensed volunteer medical workers in accordance with RCW 18.130.360, except as provided in RCW 18.79.202. In no case may the secretary increase a licensing fee for an ambulatory surgical facility licensed under chapter 70.230 RCW prior to July 1, 2018, nor may he or she commence the adoption of rules to increase a licensing fee prior to July 1, 2018.

(3) All such fees shall be fixed by rule adopted by the secretary in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

Sec. 2. RCW 70.230.020 and 2007 c 273 s 2 are each amended to read as follows:

The secretary shall:

(1) Issue a license to any ambulatory surgical facility that:

(a) Submits payment of the fee established in ((~~section 7, chapter 273, Laws of 2007~~)) RCW 43.70.110 and 43.70.250;

(b) Submits a completed application that demonstrates the ability to comply with the standards established for operating and maintaining an ambulatory surgical facility in statute and rule. An ambulatory surgical facility shall be deemed to have met the standards if it submits proof of certification as a medicare ambulatory surgical facility or accreditation by an organization that the secretary has determined to have substantially equivalent standards to those of the department; and

(c) Successfully completes the survey requirements established in RCW 70.230.100;

(2) Develop an application form for applicants for a license to operate an ambulatory surgical facility;

(3) Initiate investigations and enforcement actions for complaints or other information regarding failure to comply with this chapter or the standards and rules adopted under this chapter;

(4) Conduct surveys of facilities, including reviews of medical records and documents required to be maintained under this chapter or rules adopted under this chapter;

(5) By March 1, 2008, determine which accreditation organizations have substantially equivalent standards for purposes of deeming specific licensing requirements required in statute and rule as having met the state's standards; and

(6) Adopt any rules necessary to implement this chapter.

Sec. 3. RCW 70.230.050 and 2007 c 273 s 5 are each amended to read as follows:

(1) An applicant for a license to operate an ambulatory surgical facility must demonstrate the ability to comply with the standards established for operating and maintaining an ambulatory surgical facility in statute and rule, including:

(a) Submitting a written application to the department providing all necessary information on a form provided by the department, including a list of surgical specialties offered;

(b) Submitting building plans for review and approval by the department for new construction, alterations other than minor alterations, and additions to existing facilities, prior to obtaining a license and occupying the building;

(c) Demonstrating the ability to comply with this chapter and any rules adopted under this chapter;

(d) Cooperating with the department during on-site surveys prior to obtaining an initial license or renewing an existing license;

(e) Providing such proof as the department may require concerning the ownership and management of the ambulatory surgical facility, including information about the organization and governance of the facility and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets;

(f) Submitting proof of operation of a coordinated quality improvement program in accordance with RCW 70.230.080;

(g) Submitting a copy of the facility safety and emergency training program established under RCW 70.230.060;

(h) Paying any fees established by the secretary under ((~~section 7, chapter 273, Laws of 2007~~)) RCW 43.70.110 and 43.70.250; and

(i) Providing any other information that the department may reasonably require.

(2) A license is valid for three years, after which an ambulatory surgical facility must submit an application for renewal of license upon forms provided by the department and the renewal fee as established in ((~~section 7, chapter 273, Laws of 2007~~)) RCW 43.70.110 and 43.70.250. The applicant must demonstrate the ability to comply with the standards established for operating and maintaining an ambulatory surgical facility in statutes, standards, and rules. The applicant must submit the license renewal document no later than thirty days prior to the date of expiration of the license.

(3) The applicant may demonstrate compliance with any of the requirements of subsection (1) of this section by providing satisfactory documentation to the secretary that it has met the standards of an accreditation organization or federal agency that the secretary has determined to have substantially equivalent standards as the statutes and rules of this state.

Sec. 4. RCW 70.230.100 and 2007 c 273 s 11 are each amended to read as follows:

(1) The department shall make or cause to be made a survey of all ambulatory surgical facilities according to the following frequency:

(a) Except as provided in (b) of this subsection, an ambulatory surgical facility must be surveyed by the department no more than once every eighteen months.

(b) An ambulatory surgical facility must be surveyed by the department no more than once every thirty-six months if the ambulatory surgical facility:

(i) Has had, within eighteen months of a department survey, a survey in connection with its certification by the centers for medicare and medicaid services or accreditation by an accreditation organization approved by the department under RCW 70.230.020(5);

(ii) Has maintained certification by the centers for medicare and medicaid services or accreditation by an accreditation organization approved by the department under RCW 70.230.020(5) since the survey in connection with its certification or accreditation pursuant to (b)(i) of this subsection; and

(iii) As soon as practicable after a survey in connection with its certification or accreditation pursuant to (b)(i) of this subsection, provides the department with documentary evidence that the ambulatory surgical facility is certified or accredited and that the survey has occurred, including the date that the survey occurred.

(2) Every survey of an ambulatory surgical facility may include an inspection of every part of the surgical facility. The department may make an examination of all phases of the ambulatory surgical facility operation necessary to determine compliance with all applicable statutes, rules, and regulations. In the event that the department is unable to make a survey or cause a survey to be made during the three years of the term of the license, the license of the ambulatory surgical facility shall remain in effect until the state conducts a survey or a substitute survey is performed if the ambulatory surgical facility is in compliance with all other licensing requirements.

((~~(2) An ambulatory surgical facility shall be deemed to have met the survey standards of this section if it submits proof of certification as a medicare ambulatory surgical facility or accreditation by an organization that the secretary has determined to have substantially equivalent survey standards to those of the department. A survey performed pursuant to medicare certification or by an approved accrediting organization may substitute for a survey by the department if:~~

~~(a) The ambulatory surgical facility has satisfactorily completed a survey by the department in the previous eighteen months; and~~

~~(b) Within thirty days of learning the result of a survey, the ambulatory surgical facility provides the department with documentary evidence that the ambulatory surgical facility has been certified or accredited as a result of a survey and the date of the survey.~~))

(3) Ambulatory surgical facilities shall make the written reports of surveys conducted pursuant to medicare certification procedures or by an approved accrediting organization available to department surveyors during any department surveys((~~,~~)) or upon request.

NEW SECTION. **Sec. 5.** A new section is added to chapter 48.39 RCW to read as follows:

If a payor that contracts with an ambulatory surgical facility licensed under chapter 70.230 RCW requires successful completion of a survey as part of the contract, the ambulatory surgical facility is deemed to have met survey requirements if it has successfully completed a survey performed pursuant to medicare certification or by an accrediting organization that has been determined by the secretary of the department of health to have substantially equivalent

survey standards to those of the centers for medicare and medicaid services. The payor may not impose additional survey requirements on the ambulatory surgical facility.

NEW SECTION. **Sec. 6.** A new section is added to chapter 70.230 RCW to read as follows:

(1) The department shall report to the fiscal committees of the legislature by December 1, 2016, and December 1, 2017, if it anticipates that the amounts raised by ambulatory surgical facility licensing fees will not be sufficient to defray the costs of regulating ambulatory surgical facilities. The report shall identify the amount of state general fund money necessary to compensate for the insufficiency.

(2) The department shall conduct a benchmark survey to compare Washington's system for licensing ambulatory surgical facilities with the ambulatory surgical facility licensing systems of other states with a similar number of licensed ambulatory surgical facilities. The survey must review the licensing standards, staffing levels, training of surveyors and inspectors, and expenditures of the selected states. The survey must examine the total cost of the other states' regulatory structures and analyze the reasons for any differences in cost. The survey must assess the extent to which total program costs in other states are supported through licensing fees compared with state general fund money or other resources. The findings of the survey must be submitted to the committees of the legislature with jurisdiction over health care issues by December 1, 2016. The findings must include recommendations for statutory, regulatory, and administrative changes to reduce ambulatory surgical facility licensing fees.

(3) This section expires July 1, 2018.

***NEW SECTION.** Sec. 7. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2016, in the omnibus appropriations act, this act is null and void.*

Sec. 7 was vetoed. See message at end of chapter.

NEW SECTION. **Sec. 8.** RCW 70.230.180 (Ambulatory surgical facility account) and 2007 c 273 s 19 are each repealed.

Passed by the Senate March 8, 2016.

Passed by the House March 3, 2016.

Approved by the Governor March 31, 2016, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 1, 2016.

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. 5778 entitled:

"AN ACT Relating to ambulatory surgical facilities."

Section 7 is a fiscal null and void clause, but this bill does not have a fiscal impact. Therefore the clause is not necessary.

For these reasons I have vetoed Section 7 of Substitute Senate Bill No. 5778.

With the exception of Section 7, Substitute Senate Bill No. 5778 is approved."

CHAPTER 147

[Senate Bill 6156]

MEDICAID FRAUD FALSE CLAIMS ACT--EXPIRATION

AN ACT Relating to the medicaid fraud false claims act; and amending RCW 43.131.419 and 43.131.420.

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

Sec. 1. RCW 43.131.419 and 2012 c 241 s 216 are each amended to read as follows:

The qui tam provisions of the medicaid fraud false claims act as established under chapter 74.66 RCW shall be terminated on June 30, ((~~2016~~)) 2023, as provided in RCW 43.131.420.

Sec. 2. RCW 43.131.420 and 2012 c 241 s 217 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, ((~~2017~~)) 2024:

(1) ((~~RCW 74.66.010 and 2012 c 241 s 201;~~
~~(2) RCW 74.66.020 and 2012 c 241 s 202;~~
~~(3) RCW 74.66.030 and 2012 c 241 s 203;~~
~~(4) RCW 74.66.040 and 2012 c 241 s 204;~~
~~(5)~~)) RCW 74.66.050 and 2012 c 241 s 205;
(((~~(6)~~))) (2) RCW 74.66.060 and 2012 c 241 s 206;
(((~~(7)~~))) (3) RCW 74.66.070 and 2012 c 241 s 207;
(((~~(8)~~))) (4) RCW 74.66.080 and 2012 c 241 s 208; and
(((~~(9) RCW 74.66.090 and 2012 c 241 s 209;~~
~~(10) RCW 74.66.100 and 2012 c 241 s 210;~~
~~(11) RCW 74.66.110 and 2012 c 241 s 211;~~
~~(12) RCW 74.66.120 and 2012 c 241 s 212;~~
~~(13)~~)) (5) RCW 74.66.130 and 2012 c 241 s 213((~~; and~~
~~(14) RCW 74.66.005 and 2012 c 241 s 214~~)).

Passed by the Senate February 12, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 148

[Engrossed Substitute Senate Bill 6203]

PRACTICE OF PHARMACY--LONG-TERM CARE SETTINGS

AN ACT Relating to updating statutes relating to the practice of pharmacy including the practice of pharmacy in long-term care settings; amending RCW 18.64.011, 69.50.308, 74.42.230, 69.41.032, 69.41.042, 69.41.044, 69.41.055, 69.41.220, 18.64.245, and 18.64.500; reenacting and amending RCW 69.41.010 and 69.41.030; adding new sections to chapter 18.64 RCW; and adding a new section to chapter 69.41 RCW.

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

Sec. 1. RCW 18.64.011 and 2015 c 234 s 3 are each amended to read as follows:

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

(1) "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 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.

(28) "Chart order" means a lawful order for a drug or device entered on the chart or medical record of an inpatient or resident of an institutional facility by a practitioner or his or her designated agent.

(29) "Closed door long-term care pharmacy" means a pharmacy that provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a long-term care facility or hospice program, and that is not a retailer of goods to the general public.

(30) "Hospice program" means a hospice program certified or paid by medicare under Title XVIII of the federal social security act, or a hospice program licensed under chapter 70.127 RCW.

(31) "Institutional facility" means any organization whose primary purpose is to provide a physical environment for patients to obtain health care services including, but not limited to, services in a hospital, long-term care facility,

hospice program, mental health facility, drug abuse treatment center, residential habilitation center, or a local, state, or federal correction facility.

(32) "Long-term care facility" means a nursing home licensed under chapter 18.51 RCW, an assisted living facility licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(33) "Shared pharmacy services" means a system that allows a participating pharmacist or pharmacy pursuant to a request from another participating pharmacist or pharmacy to process or fill a prescription or drug order, which may include but is not necessarily limited to preparing, packaging, labeling, data entry, compounding for specific patients, dispensing, performing drug utilization reviews, conducting claims adjudication, obtaining refill authorizations, reviewing therapeutic interventions, or reviewing chart orders.

NEW SECTION. **Sec. 2.** A new section is added to chapter 18.64 RCW to read as follows:

(1) A chart order must be considered a prescription if it contains:

(a) The full name of the patient;

(b) The date of issuance;

(c) The name, strength, and dosage form of the drug prescribed;

(d) Directions for use; and

(e) An authorized signature:

(i) For written orders, the order must contain the prescribing practitioner's signature or the signature of the practitioner's authorized agent, including the name of the prescribing practitioner; or

(ii) For electronic or digital orders, the order must contain the prescribing practitioner's electronic or digital signature, or the electronic or digital signature of the practitioner's authorized agent, including the name of the prescribing practitioner.

(2) A licensed nurse, pharmacist, or physician practicing in a long-term care facility or hospice program may act as the practitioner's agent for purposes of this chapter, without need for a written agency agreement, to document a chart order in the patient's medical record on behalf of the prescribing practitioner pending the prescribing practitioner's signature; or to communicate a prescription to a pharmacy whether telephonically, via facsimile, or electronically. The communication of a prescription to a dispenser by the prescriber's agent has the same force and effect as if communicated directly by the authorized practitioner.

(3) Nothing in this chapter prevents an authorized credentialed employee of a long-term care facility from transmitting a chart order pursuant to RCW 74.42.230, or transmitting a prescription on behalf of a resident to the extent otherwise authorized by law.

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.64 RCW to read as follows:

(1) A pharmacy or pharmacist may provide a limited quantity of drugs to a nursing home or hospice program without a prescription for emergency administration by authorized personnel of the facility or program pursuant to a valid prescription. The drugs so provided must be limited to those required to meet the immediate therapeutic needs of residents or patients and may not be available from another authorized source in sufficient time to prevent risk of

harm by delay resulting from obtaining drugs from another source. Emergency kits must be secured in a locked room, container, or device to prevent unauthorized access and to ensure the proper environment for preservation of the drugs.

(2) In addition to or in connection with the emergency kit authorized under subsection (1) of this section, a nursing home that employs a unit dose drug distribution system may maintain a supplemental dose kit for supplemental nonemergency drug therapy. Supplemental dose kits must be secured in a locked room, container, or device to prevent unauthorized access, and to ensure the proper environment for preservation of the drugs. Administration of drugs from a supplemental dose kit must be under a valid prescription or chart order.

(3) The types and quantity of drugs appropriate to serve the resident or patient population of a nursing home or hospice program using an emergency kit or supplemental dose kit and procedures for the proper storage and security of drugs must be determined by a pharmaceutical services committee that includes a pharmacist licensed under this chapter, a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW, and appropriate clinical or administrative personnel of the nursing home or hospice program as set forth in rules adopted by the pharmacy quality assurance commission.

(4) A registered nurse or licensed practical nurse operating under appropriate direction and supervision by a pharmacist may restock an emergency kit or supplemental dose kit to provide for safe and timely patient access.

NEW SECTION. **Sec. 4.** A new section is added to chapter 18.64 RCW to read as follows:

(1) A pharmacy may resupply a legend drug to a patient at a long-term care facility or hospice program pursuant to a valid chart order that is signed by the prescribing practitioner, is not time limited, and has not been discontinued.

(2) A pharmacy may outsource shared pharmacy services for a long-term care facility or hospice program to another pharmacy if the outsourcing pharmacy:

(a) Obtains approval from the long-term care facility or hospice program to outsource shared pharmacy services for the facility's or program's residents or patients; and

(b) Provides a copy of the prescription or order to the pharmacy providing the shared pharmacy services.

(3) Shared pharmacy services may be used for, but are not limited to, the purpose of ensuring that drugs or devices are attainable to meet the immediate needs of residents of the long-term care facility or hospice program, or when the outsourcing pharmacy cannot provide services on an ongoing basis. Where a pharmacy uses shared pharmacy services to have a second pharmacy provide a first dose or partial fill of a prescription or drug order to meet a patient's or resident's immediate needs, the second supplying pharmacy may dispense the first dose or partially filled prescription on a satellite basis without the outsourcing pharmacy being required to fully transfer the prescription to the supplying pharmacy. The supplying pharmacy must retain a copy of the prescription or order on file, a copy of the dispensing record or fill, and must notify the outsourcing pharmacy of the service and quantity provided.

(4) A pharmacy may repackage and dispense unused drugs returned by a long-term care facility or hospice program to the pharmacy in per-use, blister packaging, whether in unit dose or modified unit dose form, except as prohibited by federal law. The commission must adopt rules providing for the safe and efficient repackaging, reuse, and disposal of unused drugs returned to a pharmacy from a long-term care facility or hospice program. In adopting rules, the commission must take into consideration the acceptance and dispensing requirements of RCW 69.70.050 (1), (2), and (5).

NEW SECTION. **Sec. 5.** A new section is added to chapter 18.64 RCW to read as follows:

The commission must adopt reasonable, task-based standards regarding the ratio of pharmacists to pharmacy technicians in a closed door long-term care pharmacy. For the purpose of such standards, a pharmacy technician licensed under chapter 18.64A RCW may not be considered to be practicing as a pharmacy technician while performing administrative tasks not associated with immediate dispensing of drugs that may lawfully be performed by a registered pharmacy assistant. Administrative tasks not associated with immediate dispensing of drugs include but are not necessarily limited to medical records maintenance, billing, prepackaging unit dose drugs, inventory control, delivery, and processing returned drugs.

NEW SECTION. **Sec. 6.** A new section is added to chapter 18.64 RCW to read as follows:

The commission may adopt rules implementing sections 2 through 5 of this act.

NEW SECTION. **Sec. 7.** A new section is added to chapter 69.41 RCW to read as follows:

(1) A pharmacy may dispense legend drugs to the resident of a long-term care facility or hospice program on the basis of a written or digitally signed prescription or chart order sent via facsimile copy by the prescriber to the long-term care facility or hospice program, and communicated or transmitted to the pharmacy pursuant to section 2 of this act.

(2) For the purpose of this section, the terms "long-term care facility," "hospice program," and "chart order" have the meanings provided in RCW 18.64.011.

Sec. 8. RCW 69.50.308 and 2013 c 276 s 3 are each amended to read as follows:

(a) A controlled substance may be dispensed only as provided in this section. Prescriptions electronically communicated must also meet the requirements under RCW 69.50.312.

(b) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule II may not be dispensed without the written or electronically communicated prescription of a practitioner.

(1) Schedule II narcotic substances may be dispensed by a pharmacy pursuant to a facsimile prescription under the following circumstances:

(i) The facsimile prescription is transmitted by a practitioner to the pharmacy; and

(ii) The facsimile prescription is for a patient in a long-term care facility or a hospice program ((~~certified or paid by medicare under Title XVIII of the federal social security act. "Long-term care facility" means nursing homes licensed under chapter 18.51 RCW, assisted living facilities licensed under chapter 18.20 RCW, and adult family homes licensed under chapter 70.128 RCW; or~~

(~~iii) The facsimile prescription is for a patient of a hospice program licensed by the state~~)); and

((~~(iv)~~)) (iii) The practitioner or the practitioner's agent notes on the facsimile prescription that the patient is a long-term care or hospice patient.

(2) Injectable Schedule II narcotic substances that are to be compounded for patient use may be dispensed by a pharmacy pursuant to a facsimile prescription if the facsimile prescription is transmitted by a practitioner to the pharmacy.

(3) Under (1) and (2) of this subsection the facsimile prescription shall serve as the original prescription and shall be maintained as other Schedule II narcotic substances prescriptions.

(c) In emergency situations, as defined by rule of the commission, a substance included in Schedule II may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of RCW 69.50.306.

(d) A prescription for a substance included in Schedule II may not be refilled. A prescription for a substance included in Schedule II may not be filled more than six months after the date the prescription was issued.

(e) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule III, IV, or V, which is a prescription drug as determined under RCW 69.04.560, may not be dispensed without a written, oral, or electronically communicated prescription of a practitioner. Any oral prescription must be promptly reduced to writing.

(f) A written, oral, or electronically communicated prescription for a substance included in Schedule III, IV, or V, which is a prescription drug as determined under RCW 69.04.560, for a resident in a long-term care facility or hospice program may be communicated to the pharmacy by an authorized agent of the prescriber. A registered nurse, pharmacist, or physician practicing in a long-term care facility or hospice program may act as the practitioner's agent for purposes of this section, without need for a written agency agreement.

(g) The prescription for a substance included in Schedule III, IV, or V may not be filled or refilled more than six months after the date issued by the practitioner or be refilled more than five times, unless renewed by the practitioner.

((~~(g)~~)) (h) A valid prescription or lawful order of a practitioner, in order to be effective in legalizing the possession of controlled substances, must be issued in good faith for a legitimate medical purpose by one authorized to prescribe the use of such controlled substance. An order purporting to be a prescription not in the course of professional treatment is not a valid prescription or lawful order of a practitioner within the meaning and intent of this chapter; and the person who knows or should know that the person is filling such an order, as well as the person issuing it, can be charged with a violation of this chapter.

((~~(h)~~)) (i) A substance included in Schedule V must be distributed or dispensed only for a medical purpose.

((~~(i)~~)) (j) A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner's profession. Medical treatment includes dispensing or administering a narcotic drug for pain, including intractable pain.

((~~(j)~~)) (k) No administrative sanction, or civil or criminal liability, authorized or created by this chapter may be imposed on a pharmacist for action taken in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

((~~(k)~~)) (l) An individual practitioner may not dispense a substance included in Schedule II, III, or IV for that individual practitioner's personal use.

(4) For the purposes of this section, the terms "long-term care facility" and "hospice program" have the meaning provided in RCW 18.64.011.

Sec. 9. RCW 74.42.230 and 1994 sp.s. c 9 s 751 are each amended to read as follows:

(1) The resident's attending or staff physician or authorized practitioner approved by the attending physician shall order all medications for the resident. The order may be oral or written and shall ((~~be limited by time~~)) continue in effect until discontinued by a physician or other authorized prescriber, unless the order is specifically limited by time. An "authorized practitioner," as used in this section, is a registered nurse under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners, ((~~or~~)) a physician assistant under chapter 18.71A RCW when authorized by the medical quality assurance commission, or a pharmacist under chapter 18.64 RCW when authorized by the pharmacy quality assurance commission.

(2) An oral order shall be given only to a licensed nurse, pharmacist, or another physician. The oral order shall be recorded and physically or electronically signed immediately by the person receiving the order. The attending physician shall sign the record of the oral order in a manner consistent with good medical practice.

(3) A licensed nurse, pharmacist, or another physician receiving and recording an oral order may, if so authorized by the physician or authorized practitioner, communicate that order to a pharmacy on behalf of the physician or authorized practitioner. The order may be communicated verbally by telephone, by facsimile manually signed by the person receiving the order pursuant to subsection (2) of this section, or by electronic transmission pursuant to RCW 69.41.055. The communication of a resident's order to a pharmacy by a licensed nurse, pharmacist, or another physician acting at the prescriber's direction has the same force and effect as if communicated directly by the delegating physician or authorized practitioner. Nothing in this provision limits the authority of a licensed nurse, pharmacist, or physician to delegate to an authorized agent, including but not limited to delegation of operation of a facsimile machine by credentialed facility staff, to the extent consistent with his or her professional license.

Sec. 10. RCW 69.41.010 and 2013 c 276 s 1 and 2013 c 19 s 55 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Community-based care settings" include: Community residential programs for persons with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(3) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(4) "Department" means the department of health.

(5) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(6) "Dispenser" means a practitioner who dispenses.

(7) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(8) "Distributor" means a person who distributes.

(9) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of human beings or animals; and

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(10) "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 transmitted verbally by telephone nor a facsimile manually signed by the practitioner.

(11) "In-home care settings" include an individual's place of temporary and permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings.

(12) "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(13) "Legible prescription" means a prescription or medication order issued by a practitioner that is capable of being read and understood by the pharmacist filling the prescription or the nurse or other practitioner implementing the medication order. A prescription must be hand printed, typewritten, or electronically generated.

(14) "Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department. A nonpractitioner may help in the preparation of legend drugs or controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate. Medication assistance shall not include assistance with intravenous medications or injectable medications, except prefilled insulin syringes.

(15) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(16) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, 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, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, an osteopathic physician assistant under chapter 18.57A RCW, a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a pharmacist under chapter 18.64 RCW, or, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

(17) "Secretary" means the secretary of health or the secretary's designee.

(18) "Commission" means the pharmacy quality assurance commission.

Sec. 11. RCW 69.41.030 and 2013 c 71 s 1 and 2013 c 12 s 1 are each reenacted and amended to read as follows:

(1) It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry

board under 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 commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the ((~~board of pharmacy~~)) commission and approved by a practitioner authorized to prescribe drugs, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, a physician assistant under chapter 18.71A RCW when authorized by the medical quality assurance commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or 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 advanced registered nurse practitioner, a licensed physician assistant, a licensed osteopathic physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor.

Sec. 12. RCW 69.41.032 and 1987 c 41 s 2 are each amended to read as follows:

This chapter shall not prevent a medicare-approved dialysis center or facility operating a medicare-approved home dialysis program from selling, delivering, possessing, or dispensing directly to its dialysis patients, in case or full shelf lots, if prescribed by a physician licensed under chapter 18.57 or 18.71 RCW, those legend drugs determined by the ((~~board~~)) commission pursuant to rule.

Sec. 13. RCW 69.41.042 and 1989 1st ex.s. c 9 s 405 are each amended to read as follows:

A pharmaceutical manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs shall maintain invoices or such

other records as are necessary to account for the receipt and disposition of the legend drugs.

The records maintained pursuant to this section shall be available for inspection by the ((~~board~~)) commission and its authorized representatives and shall be maintained for two years.

Sec. 14. RCW 69.41.044 and 2005 c 274 s 328 are each amended to read as follows:

All records, reports, and information obtained by the ((~~board~~)) commission or its authorized representatives from or on behalf of a pharmaceutical manufacturer, representative of a manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs under this chapter are confidential and exempt from public inspection and copying under chapter 42.56 RCW. Nothing in this section restricts the investigations or the proceedings of the ((~~board~~)) commission so long as the ((~~board~~)) commission and its authorized representatives comply with the provisions of chapter 42.56 RCW.

Sec. 15. RCW 69.41.055 and 1998 c 222 s 2 are each amended to read as follows:

(1) Information concerning an original prescription or information concerning a prescription refill for a legend drug may be electronically communicated between an authorized practitioner and a pharmacy of the patient's choice with no intervening person having access to the prescription drug order pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription or order for a legend drug;

(b) The system used for transmitting electronically communicated prescription information and the system used for receiving electronically communicated prescription information must be approved by the ((~~board~~)) commission. This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The ((~~board~~)) commission shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the ((~~board~~)) commission;

(c) An explicit opportunity for practitioners must be made to indicate their preference on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted. This section does not limit the ability of practitioners and pharmacists to permit substitution by default under a prior-consent authorization;

(d) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records. The pharmacist in charge shall establish or verify the existence of policies and

procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures; and

(f) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the ((~~board~~)) commission.

(2) The electronic or digital signature of the prescribing practitioner's agent on behalf of the prescribing practitioner for a resident in a long-term care facility or hospice program, pursuant to a valid order and authorization under section 2 of this act, constitutes a valid electronic communication of prescription information. Such an authorized signature and transmission by an agent in a long-term care facility or hospice program does not constitute an intervening person having access to the prescription drug order.

(3) The ((~~board~~)) commission may adopt rules implementing this section.

Sec. 16. RCW 69.41.220 and 1989 1st ex.s. c 9 s 428 are each amended to read as follows:

Each manufacturer and distributor shall publish and provide to the ((~~board~~)) commission by filing with the department printed material which will identify each current imprint used by the manufacturer or distributor. The ((~~board~~)) commission shall be notified of any change by the filing of any change with the department. This information shall be provided by the department to all pharmacies licensed in the state of Washington, poison control centers, and hospital emergency rooms.

Sec. 17. RCW 18.64.245 and 2013 c 19 s 17 are each amended to read as follows:

(1) Every proprietor or manager of a pharmacy shall keep readily available a suitable record of prescriptions which shall preserve for a period of not less than two years the record of every prescription dispensed at such pharmacy which shall be numbered, dated, and filed, and shall produce the same in court or before any grand jury whenever lawfully required to do so. The record shall be maintained either separately from all other records of the pharmacy or in such form that the information required is readily retrievable from ordinary business records of the pharmacy. All recordkeeping requirements for controlled substances must be complied with. Such record of prescriptions shall be for confidential use in the pharmacy, only. The record of prescriptions shall be open for inspection by the commission or any officer of the law, who is authorized to enforce this chapter ((~~18.64,~~)) or chapter 69.41((~~,~~)) or 69.50 RCW.

(2) When a pharmacy receives a prescription in digital or electronic format through facsimile equipment transmitting an exact visual image of the prescription, or through electronic communication of prescription information, the digital or electronic record of every such prescription dispensed at the pharmacy constitutes a suitable record of prescriptions, provided that the original or direct copy of the prescription is electronically or digitally numbered or referenced, dated, and filed in a form that permits the information required to be readily retrievable.

(3) A person violating this section is guilty of a misdemeanor.

Sec. 18. RCW 18.64.500 and 2013 c 19 s 30 are each amended to read as follows:

(1) ((~~Effective July 1, 2010,~~)) Every prescription written in this state by a licensed practitioner must be written on a tamper-resistant prescription pad or paper approved by the commission.

(2) A pharmacist may not fill a written prescription from a licensed practitioner unless it is written on an approved tamper-resistant prescription pad or paper, except that a pharmacist may provide emergency supplies in accordance with the commission and other insurance contract requirements.

(3) If a hard copy of an electronic prescription is given directly to the patient, the manually signed hard copy prescription must be on approved tamper-resistant paper that meets the requirements of this section.

(4) For the purposes of this section, "tamper-resistant prescription pads or paper" means a prescription pad or paper that has been approved by the commission for use and contains the following characteristics:

(a) One or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form;

(b) One or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription form by the practitioner; and

(c) One or more industry-recognized features designed to prevent the use of counterfeit prescription forms.

(5) Practitioners shall employ reasonable safeguards to assure against theft or unauthorized use of prescriptions.

(6) All vendors must have their tamper-resistant prescription pads or paper approved by the commission prior to the marketing or sale of pads or paper in Washington state.

(7) The commission shall create a seal of approval that confirms that a pad or paper contains all three industry-recognized characteristics required by this section. The seal must be affixed to all prescription pads or paper used in this state.

(8) The commission may adopt rules necessary for the administration of chapter 328, Laws of 2009.

(9) The tamper-resistant prescription pad or paper requirements in this section shall not apply to:

(a) Prescriptions that are transmitted to the pharmacy by telephone, facsimile, or electronic means; or

(b) Prescriptions written for inpatients of a hospital, outpatients of a hospital, residents of a ((~~nursing home~~)) long-term care facility, patients of a hospice program, inpatients or residents of a mental health facility, or individuals incarcerated in a local, state, or federal correction facility, when the health care practitioner authorized to write prescriptions, or his or her authorized agent, writes the order into the patient's medical or clinical record, the order is given directly to the pharmacy, and the patient never has the opportunity to handle the written order.

(10) All acts related to the prescribing, dispensing, and records maintenance of all prescriptions shall be in compliance with applicable federal and state laws, rules, and regulations.

Passed by the Senate March 7, 2016.

Passed by the House March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 149

[Substitute Senate Bill 6227]

WASHINGTON WILDLIFE AND RECREATION PROGRAM--RECREATION AND CONSERVATION OFFICE RECOMMENDATIONS

AN ACT Relating to implementing the recommendations of the 2015 review of the Washington wildlife and recreation program; amending RCW 79A.15.010, 79A.15.030, 79A.15.040, 79A.15.050, 79A.15.070, 79A.15.080, 79A.15.110, and 79A.15.130; reenacting and amending RCW 79A.15.060; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** In section 3163, chapter 3, Laws of 2015 3rd sp. sess., the legislature directed the recreation and conservation office to review and make recommendations for changes to the Washington wildlife and recreation program. The recreation and conservation office conducted the review and this act details the proposed recommendations for statutory revisions to chapter 79A.15 RCW that will promote habitat conservation, outdoor recreation, working lands preservation, property rights, coordination between the state and local governments, and ensure continued success of the program for future generations.

Sec. 2. RCW 79A.15.010 and 2015 c 225 s 126 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: (a) "Farm and agricultural land" in RCW 84.34.020(2); and (b) "farm and agricultural conservation land" in RCW 84.34.020(8).

(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"~~)) conservancies means ((~~an~~)) organizations 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 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.

(14) "Confer" means a dialogue between project sponsors and local county and city officials with the purpose of early review of potential projects. The dialogue may include any matter relevant to a particular project, which may include but need not be limited to: Project purpose and scope; project elements; estimated project cost; costs and benefits to the community; plans for project management and maintenance; and public access.

(15) "Forest lands" means any land defined as "timberland" in RCW 84.34.020(3).

(16) "Multiple benefits" means recreational uses that are compatible with habitat conservation or resources uses or management practices that are compatible with and provide the ability to achieve additional conservation benefits.

Sec. 3. RCW 79A.15.030 and 2015 c 183 s 1 are each amended to read as follows:

(1) Moneys appropriated prior to July 1, 2016, for this chapter shall be divided as follows:

(a) Appropriations for a biennium of forty million dollars or less must be allocated equally between the habitat conservation account and the outdoor recreation account.

(b) If appropriations for a biennium total more than forty million dollars, the money must be allocated as follows: (i) Twenty million dollars to the habitat conservation account and twenty million dollars to the outdoor recreation account; (ii) any amount over forty million dollars up to fifty million dollars shall be allocated as follows: (A) Ten percent to the habitat conservation account; (B) ten percent to the outdoor recreation account; (C) forty percent to the riparian protection account; and (D) forty percent to the farmlands preservation account; and (iii) any amounts over fifty million dollars must be allocated as follows: (A) Thirty percent to the habitat conservation account; (B) thirty percent to the outdoor recreation account; (C) thirty percent to the riparian protection account; and (D) ten percent to the farmlands preservation account.

(2) ((~~Except as otherwise provided in chapter 303, Laws of 2005,~~)) Beginning July 1, 2016, moneys appropriated for this chapter must be allocated as follows: (a) Forty-five percent to the habitat conservation account; (b) forty-five percent to the outdoor recreation account; and (c) ten percent to the farm and forest account.

(3) Moneys deposited in these accounts shall be invested as authorized for other state funds, and any earnings on them shall be credited to the respective account.

((~~(3)~~)) (4) All moneys deposited in the habitat conservation, outdoor recreation, ((~~riparian protection, and farmlands preservation~~)) and farm and forest accounts shall be allocated as provided under RCW 79A.15.040, 79A.15.050, ((~~79A.15.120,~~)) and 79A.15.130 as grants to state or local agencies or nonprofit nature ((~~conservancy organizations or associations~~)) conservancies for acquisition, development, and renovation within the jurisdiction of those agencies, subject to legislative appropriation. The board may use or permit the use of any funds appropriated for this chapter as matching funds where federal, local, or other funds are made available for projects within the purposes of this chapter. Moneys appropriated to these accounts that are not obligated to a specific project may be used to fund projects from lists of alternate projects from the same account in biennia succeeding the biennium in which the moneys were originally appropriated.

((~~(4)~~)) (5) Projects receiving grants ((~~under this chapter that are developed or otherwise accessible for public recreational uses shall be available to the public~~)) for development, recreational access, or fee simple acquisition of land under this chapter must be accessible for public recreation and outdoor education unless the board specifically approves limiting public access in order to protect sensitive species, water quality, or public safety.

((~~(5)~~)) (6) The board may make grants to an eligible project from the habitat conservation, outdoor recreation, ((~~riparian protection, and farmlands preservation~~)) and farm and forest accounts and any one or more of the applicable categories under such accounts described in RCW 79A.15.040, 79A.15.050, ((~~79A.15.120,~~)) and 79A.15.130.

((~~(6)~~)) (7) The board may accept private donations to the habitat conservation account, the outdoor recreation account, ((~~the riparian protection account,~~)) and the ((~~farmlands preservation~~)) farm and forest account for the purposes specified in this chapter.

((~~(7)~~)) (8) The board may retain a portion of the funds appropriated for this chapter for its office for the administration of the programs and purposes specified in this chapter. The portion of the funds retained for administration may not exceed: (a) The actual administration costs averaged over the previous five biennia as a percentage of the legislature's new appropriation for this chapter; or (b) the amount specified in the appropriation, if any. Each biennium the percentage specified under (a) of this subsection must be approved by the office of financial management and submitted along with the prioritized lists of projects to be funded in RCW 79A.15.060((~~(6)~~)), 79A.15.070((~~(7)~~)), ((~~79A.15.120(10),~~)) and 79A.15.130((~~(11)~~)).

((~~(8)~~)) (9) Habitat and recreation land and facilities acquired or developed with moneys appropriated for this chapter may not, without prior approval of the board, be converted to a use other than that for which funds were originally

approved. The board shall adopt rules and procedures governing the approval of such a conversion.

Sec. 4. RCW 79A.15.040 and 2008 c 299 s 29 are each amended to read as follows:

(1) Moneys appropriated for this chapter prior to July 1, 2016, to the habitat conservation account shall be distributed in the following way:

(a) Not less than forty percent through June 30, 2011, at which time the amount shall become forty-five percent, for the acquisition and development of critical habitat;

(b) Not less than thirty percent for the acquisition and development of natural areas;

(c) Not less than twenty percent for the acquisition and development of urban wildlife habitat; and

(d) Not less than ten percent through June 30, 2011, at which time the amount shall become five percent, shall be used by the board to fund restoration and enhancement projects on state lands. Only the department of natural resources and the department of fish and wildlife may apply for these funds to be used on existing habitat and natural area lands.

(2) Moneys appropriated beginning July 1, 2016, for this chapter to the habitat conservation account shall be distributed in the following way:

(a) Not less than thirty-five percent for the acquisition and development of critical habitat;

(b) Not less than twenty-five percent for the acquisition and development of natural areas;

(c) Not less than fifteen percent for the acquisition or enhancement or restoration of riparian habitat;

(d) Not less than fifteen percent for the acquisition and development of urban wildlife habitat; and

(e) Not less than ten percent or three million dollars, whichever is less, for the board to fund restoration and enhancement projects on state lands. Any amount above three million dollars must be distributed for the purposes of (c) of this subsection.

(3)(a) In distributing these funds, the board retains discretion to meet the most pressing needs for critical habitat, natural areas, riparian protection, and urban wildlife habitat, and is not required to meet the percentages described in subsections (1) and (2) of this section in any one biennium.

(b) If not enough project applications are submitted in a category within the habitat conservation account to meet the percentages described in subsections (1) and (2) of this section in any biennium, the board retains discretion to distribute any remaining funds to the other categories within the account.

((~~(3) Only~~)) (4) State agencies and nonprofit nature conservancies may apply for acquisition and development funds for natural areas projects under subsection (1)(b) of this section.

((~~(4)~~)) (5) State and local agencies and nonprofit nature conservancies may apply for acquisition and development funds for critical habitat ((~~and~~)), urban wildlife habitat, and riparian protection projects under ((~~subsection (1)(a) and (c) of~~)) this section. Other state agencies not defined in RCW 79A.15.010, such as the department of transportation and the department of corrections, may enter

into interagency agreements with state agencies to apply in partnership for riparian protection funds under this section.

(6) The department of natural resources, the department of fish and wildlife, and the state parks and recreation commission may apply for restoration and enhancement funds to be used on existing state-owned lands.

((~~(5)~~)) (7)(a) Any lands that have been acquired with grants under this section by the department of fish and wildlife are subject to an amount in lieu of real property taxes and an additional amount for control of noxious weeds as determined by RCW 77.12.203.

(b) Any lands that have been acquired with grants under this section by the department of natural resources are subject to payments in the amounts required under the provisions of RCW 79.70.130 and 79.71.130.

((~~(6)~~)) (8) Except as otherwise conditioned by RCW 79A.15.140 or 79A.15.150, the board in its evaluating process shall consider the following in determining distribution priority:

(a) Whether the entity applying for funding is a Puget Sound partner, as defined in RCW 90.71.010;

(b) Effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under RCW 35.105.050, whether the entity receiving assistance has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030; and

(c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

((~~(7)~~)) (9) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

Sec. 5. RCW 79A.15.050 and 2007 c 241 s 30 are each amended to read as follows:

(1) Moneys appropriated prior to July 1, 2016, for this chapter to the outdoor recreation account shall be distributed in the following way:

(a) Not less than thirty percent to the state parks and recreation commission for the acquisition and development of state parks, with at least fifty percent of the money for acquisition costs;

(b) Not less than thirty percent for the acquisition, development, and renovation of local parks, with at least fifty percent of this money for acquisition costs;

(c) Not less than twenty percent for the acquisition, renovation, or development of trails;

(d) Not less than fifteen percent for the acquisition, renovation, or development of water access sites, with at least seventy-five percent of this money for acquisition costs; and

(e) Not less than five percent for development and renovation projects on state recreation lands. Only the department of natural resources and the department of fish and wildlife may apply for these funds to be used on their existing recreation lands.

(2) Moneys appropriated beginning July 1, 2016, for this chapter to the outdoor recreation account shall be distributed in the following way:

(a) Not less than thirty percent to the state parks and recreation commission for the acquisition and development of state parks, with at least forty percent but no more than fifty percent of the money for acquisition costs;

(b) Not less than thirty percent for the acquisition, development, and renovation of local parks, with at least forty percent but no more than fifty percent of this money for acquisition costs;

(c) Not less than twenty percent for the acquisition, renovation, or development of trails;

(d) Not less than ten percent for the acquisition, renovation, or development of water access sites, with at least seventy-five percent of this money for acquisition costs; and

(e) Not less than ten percent or three million dollars, whichever is less, for development and renovation projects on state recreation lands. Any amount above three million dollars must be distributed for the purposes of (d) of this subsection.

(3)(a) In distributing these funds, the board retains discretion to meet the most pressing needs for state and local parks, trails, and water access sites, and is not required to meet the percentages described in subsections (1) and (2) of this section in any one biennium.

(b) If not enough project applications are submitted in a category within the outdoor recreation account to meet the percentages described in subsections (1) and (2) of this section in any biennium, the board retains discretion to distribute any remaining funds to the other categories within the account.

((~~(3)~~)) (4) Only the state parks and recreation commission may apply for acquisition and development funds for state parks under subsections (1)(a) and (2)(a) of this section.

(5) Only local agencies may apply for acquisition, development, or renovation funds for local parks under subsections (1)(b) and (2)(b) of this section.

((~~(4)~~)) (6) Only state and local agencies may apply for funds for trails under subsections (1)(c) and (2)(c) of this section.

((~~(5)~~)) (7) Only state and local agencies may apply for funds for water access sites under subsections (1)(d) and (2)(d) of this section.

(8) Only the department of natural resources and the department of fish and wildlife may apply for funds for development and renovation projects on existing state recreation lands under subsections (1)(e) and (2)(e) of this section.

Sec. 6. RCW 79A.15.060 and 2009 c 341 s 3 and 2009 c 16 s 1 are each reenacted and amended to read as follows:

(1) The board may adopt rules establishing acquisition policies and priorities for distributions from the habitat conservation account.

(2) Except as provided in RCW 79A.15.030((~~(7)~~)) (8), moneys appropriated for this chapter may not be used by the board to fund staff positions or other overhead expenses, or by a state, regional, or local agency to fund operation or maintenance of areas acquired under this chapter.

(3) Moneys appropriated for this chapter may be used by grant recipients for costs incidental to acquisition, including, but not limited to, surveying expenses, fencing, noxious weed control, and signing.

(4) The board may not approve a local project where the local agency share is less than the amount to be awarded from the habitat conservation account.

(5) In determining acquisition priorities with respect to the habitat conservation account, the board shall consider, at a minimum, the following criteria:

(a) For critical habitat and natural areas proposals:

(i) Multiple benefits for the project;

(ii) Whether, and the extent to which, a conservation easement can be used to meet the purposes for the project;

(iii) Community support for the project based on input from, but not limited to, local citizens, local organizations, and local elected officials;

((~~(ii)~~)) (iv) The project proposal's ongoing stewardship program that includes estimated costs of maintaining and operating the project including, but not limited to, control of noxious weeds((~~,~~)) and detrimental invasive species, and that identifies the source of the funds from which the stewardship program will be funded;

((~~(iii)~~)) (v) Recommendations as part of a watershed plan or habitat conservation plan, or a coordinated regionwide prioritization effort, and for projects primarily intended to benefit salmon, limiting factors, or critical pathways analysis;

((~~(iv)~~)) (vi) Immediacy of threat to the site;

((~~(v)~~)) (vii) Uniqueness of the site;

((~~(vi)~~)) (viii) Diversity of species using the site;

((~~(vii)~~)) (ix) Quality of the habitat;

((~~(viii)~~)) (x) Long-term viability of the site;

((~~(ix)~~)) (xi) Presence of endangered, threatened, or sensitive species;

((~~(x)~~)) (xii) Enhancement of existing public property;

((~~(xi)~~)) (xiii) Consistency with a local land use plan, or a regional or statewide recreational or resource plan, including projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130;

((~~(xii)~~)) (xiv) Educational and scientific value of the site;

((~~(xiii)~~)) (xv) Integration with recovery efforts for endangered, threatened, or sensitive species;

((~~(xiv) For critical habitat proposals by local agencies,~~)) (xvi) The statewide significance of the site.

(b) For urban wildlife habitat proposals, in addition to the criteria of (a) of this subsection:

(i) Population of, and distance from, the nearest urban area;

(ii) Proximity to other wildlife habitat;

(iii) Potential for public use; and

(iv) Potential for use by special needs populations.

(c) For riparian protection proposals, the board must consider, at a minimum, the following criteria:

(i) Whether the project continues the conservation reserve enhancement program. Applications that extend the duration of leases of riparian areas that are currently enrolled in the conservation reserve enhancement program are eligible. These applications are eligible for a conservation lease extension of at least twenty-five years of duration;

(ii) Whether the projects are identified or recommended in a watershed plan, salmon recovery plan, or other local plans, such as habitat conservation plans, and these must be highly considered in the process;

(iii) Whether there is community support for the project;

(iv) Whether the proposal includes an ongoing stewardship program that includes control of noxious weeds, detrimental invasive species, and that identifies the source of the funds from which the stewardship program will be funded;

(v) Whether there is an immediate threat to the site;

(vi) Whether the quality of the habitat is improved or, for projects including restoration or enhancement, the potential for restoring quality habitat including linkage of the site to other high quality habitat;

(vii) Whether the project is consistent with a local land use plan or a regional or statewide recreational or resource plan. The projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130 must be highly considered in the process;

(viii) Whether the site has educational or scientific value; and

(ix) Whether the site has passive recreational values for walking trails, wildlife viewing, the observation of natural settings, or other multiple benefits.

(d) Moneys appropriated for this chapter to riparian protection projects must be distributed for the acquisition or enhancement or restoration of riparian habitat. All enhancement or restoration projects, except those qualifying under (c)(i) of this subsection, must include the acquisition of a real property interest in order to be eligible.

(6) Before November 1st of each even-numbered year, the board shall recommend to the governor a prioritized list of all ((~~state agency and local~~)) projects to be funded under RCW 79A.15.040(((~~(1) (a), (b), and (c)~~))). The governor may remove projects from the list recommended by the board and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and any particular match requirement, and describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.

Sec. 7. RCW 79A.15.070 and 2007 c 241 s 33 are each amended to read as follows:

(1) In determining which state parks proposals and local parks proposals to fund, the board shall use existing policies and priorities.

(2) Except as provided in RCW 79A.15.030(((~~(7)~~))) (8), moneys appropriated for this chapter may not be used by the board to fund staff or other overhead expenses, or by a state, regional, or local agency to fund operation or maintenance of areas acquired under this chapter.

(3) Moneys appropriated for this chapter may be used by grant recipients for costs incidental to acquisition and development, including, but not limited to, surveying expenses, fencing, and signing.

(4) The board may not approve a project of a local agency where the share contributed by the local agency is less than the amount to be awarded from the outdoor recreation account. The local agency's share may be reduced or waived if the project meets the needs of an underserved population or a community in need, as defined by the board.

(5) The board may adopt rules establishing acquisition policies and priorities for the acquisition and development of trails and water access sites to be financed from moneys in the outdoor recreation account.

(6) In determining the acquisition and development priorities, the board shall consider, at a minimum, the following criteria:

(a) For trails proposals:

(i) Community support for the project;

(ii) Immediacy of threat to the site;

(iii) Linkage between communities;

(iv) Linkage between trails;

(v) Existing or potential usage;

(vi) Consistency with a local land use plan, or a regional or statewide recreational or resource plan, including projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130;

(vii) Availability of water access or views;

(viii) Enhancement of wildlife habitat; and

(ix) Scenic values of the site.

(b) For water access proposals:

(i) Community support for the project;

(ii) Distance from similar water access opportunities;

(iii) Immediacy of threat to the site;

(iv) Diversity of possible recreational uses;

(v) Public demand in the area; and

(vi) Consistency with a local land use plan, or a regional or statewide recreational or resource plan, including projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130.

(7) Before November 1st of each even-numbered year, the board shall recommend to the governor a prioritized list of all ((~~state agency and local~~)) projects to be funded under RCW 79A.15.050((~~(1) (a), (b), (c), and (d)~~)). The governor may remove projects from the list recommended by the board and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and any particular match requirement, and describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.

Sec. 8. RCW 79A.15.080 and 2007 c 241 s 34 are each amended to read as follows:

The board shall not sign contracts or otherwise financially obligate funds from the habitat conservation account, the outdoor recreation account, ((~~the riparian protection account,~~)) or the ((~~farmlands preservation~~)) farm and forest account as provided in this chapter before the legislature has appropriated funds for a specific list of projects. The legislature may remove projects from the list recommended by the governor.

Sec. 9. RCW 79A.15.110 and 2007 c 241 s 36 are each amended to read as follows:

((~~A~~)) State or local ((~~agency~~)) agencies or nonprofit nature conservancies shall review the proposed project application and confer with the county or city

with jurisdiction over the project area prior to applying for funds for the acquisition of property under this chapter. The appropriate county or city legislative authority may, at its discretion, submit a letter to the board identifying the authority's position with regard to the acquisition project. The board shall make the letters received under this section available to the governor and the legislature when the prioritized project list is submitted under ((~~RCW 79A.15.120, 79A.15.060, and 79A.15.070~~)) this chapter.

Sec. 10. RCW 79A.15.130 and 2009 c 341 s 5 are each amended to read as follows:

(1) The ((~~farmlands preservation~~)) farm and forest account is established in the state treasury. The board will administer the account in accordance with chapter 79A.25 RCW and this chapter, and hold it separate and apart from all other money, funds, and accounts of the board. Moneys appropriated for this chapter to the ((~~farmlands preservation~~)) farm and forest account must be distributed for the acquisition and preservation of farmlands and forest lands in order to maintain the opportunity for agricultural and forest management activity upon these lands.

(2)(((~~(a) Moneys appropriated for this chapter to the farmlands preservation account may be distributed for (i) the fee simple or less than fee simple acquisition of farmlands; (ii) the enhancement or restoration of ecological functions on those properties; or (iii) both~~)) Moneys appropriated beginning July 1, 2016, for this chapter shall be divided as follows:

(a) Not less than ninety percent for the acquisition and preservation of farmlands.

(b) Not less than ten percent for the acquisition and preservation of forest lands.

(3) Moneys appropriated for this chapter to the farm and forest account may be distributed for: (a) The acquisition of a less than fee simple interest in farmlands or forest land, such as a conservation easement or lease; (b) the enhancement or restoration of ecological functions on those properties; or (c) both. In order for a farmland or forest land preservation grant to provide for an environmental enhancement or restoration project, the project must include the acquisition of a real property interest.

(((~~(b) If a city, county, nonprofit nature conservancy organization or association, or the conservation commission acquires a property through this program in fee simple, the city, county, nonprofit nature conservancy organization or association, or the conservation commission shall endeavor to secure preservation of the property through placing a conservation easement, or other form of deed restriction, on the property which dedicates the land to agricultural use and retains one or more property rights in perpetuity. Once an easement or other form of deed restriction is placed on the property, the city, county, nonprofit nature conservancy organization or association, or the conservation commission shall seek to sell the property, at fair market value, to a person or persons who will maintain the property in agricultural production. Any moneys from the sale of the property shall either be used to purchase interests in additional properties which meet the criteria in subsection (9) of this section, or to repay the grant from the state which was originally used to purchase the property.~~

~~(3)~~)) (4) Cities, counties, nonprofit nature ((~~conservancy organizations or associations~~)) conservancies, and the conservation commission may apply for acquisition and enhancement or restoration funds for farmland or forest land preservation projects within their jurisdictions under subsection (1) of this section.

((~~(4)~~)) (5) The board may adopt rules establishing acquisition and enhancement or restoration policies and priorities for distributions from the ((~~farmlands preservation~~)) farm and forest account.

((~~(5)~~)) (6) The acquisition of a property ((~~right~~)) interest in a project under this section ((~~by a county, city, nonprofit nature conservancy organization or association, or the conservation commission~~)) does not provide a right of access to the property by the public unless explicitly provided for in a conservation easement or other form of deed restriction.

((~~(6)~~)) (7) Except as provided in RCW 79A.15.030((~~(7)~~)) (8), moneys appropriated for this section may not be used by the board to fund staff positions or other overhead expenses, or by ((~~a city, county, nonprofit nature conservancy organization or association~~)) cities, counties, nonprofit nature conservancies, or the conservation commission to fund operation or maintenance of areas acquired under this chapter.

((~~(7)~~)) (8) Moneys appropriated for this section may be used by grant recipients for costs incidental to restoration and acquisition, including, but not limited to, surveying expenses, fencing, noxious weed control, and signing.

((~~(8)~~)) (9) The board may not approve a local project where the local agency's or nonprofit nature ((~~conservancy organization's or association's~~)) conservancies' share is less than the amount to be awarded from the ((~~farmlands preservation~~)) farm and forest account. In-kind contributions, including contributions of a real property interest in land, may be used to satisfy the local agency's or nonprofit nature ((~~conservancy organization's or association's~~)) conservancies' share.

((~~(9)~~)) (10) In determining the acquisition priorities for farmland projects, the board must consider, at a minimum, the following criteria:

(a) Community support for the project;

(b) A recommendation as part of a limiting factors or critical pathways analysis, a watershed plan or habitat conservation plan, or a coordinated regionwide prioritization effort;

(c) The likelihood of the conversion of the site to nonagricultural or more highly developed usage;

(d) Consistency with a local land use plan, or a regional or statewide recreational or resource plan. The projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130 must be highly considered in the process;

(e) Benefits to salmonids;

(f) Benefits to other fish and wildlife habitat;

(g) Integration with recovery efforts for endangered, threatened, or sensitive species;

(h) The viability of the site for continued agricultural production, including, but not limited to:

(i) Soil types;

(ii) On-site production and support facilities such as barns, irrigation systems, crop processing and storage facilities, wells, housing, livestock sheds, and other farming infrastructure;

(iii) Suitability for producing different types or varieties of crops;

(iv) Farm-to-market access;

(v) Water availability; and

(i) Other community values provided by the property when used as agricultural land, including, but not limited to:

(i) Viewshed;

(ii) Aquifer recharge;

(iii) Occasional or periodic collector for storm water runoff;

(iv) Agricultural sector job creation;

(v) Migratory bird habitat and forage area; and

(vi) Educational and curriculum potential.

((~~(10)~~)) (11) In allotting funds for environmental enhancement or restoration projects, the board will require the projects to meet the following criteria:

(a) Enhancement or restoration projects must further the ecological functions of the farmlands;

(b) The projects, such as fencing, bridging watercourses, replanting native vegetation, replacing culverts, clearing of waterways, etc., must be less than fifty percent of the acquisition cost of the project including any in-kind contribution by any party;

(c) The projects should be based on accepted methods of achieving beneficial enhancement or restoration results; and

(d) The projects should enhance the viability of the preserved farmland to provide agricultural production while conforming to any legal requirements for habitat protection.

((~~(11)~~)) (12) In determining the acquisition priorities for forest land projects, the board must consider, at a minimum, the following criteria:

(a) Community support for the project;

(b) A recommendation as part of a limiting factors or critical pathways analysis, a watershed plan or habitat conservation plan, or a coordinated regionwide prioritization effort;

(c) The likelihood of conversion of the site to nontimber or more highly developed use;

(d) Consistency with a local land use plan, or a regional or statewide recreational or resource plan. The projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130 must be highly considered in the process;

(e) Multiple benefits of the project;

(f) Project attributes, including but not limited to:

(i) Clean air and water;

(ii) Storm water management;

(iii) Wildlife habitat; and

(iv) Potential for carbon sequestration.

(13) In allotting funds for environmental enhancement or restoration projects, the board must require the projects to meet the following criteria:

(a) Enhancement or restoration projects must further the ecological functions of the forest lands;

(b) The projects, such as fencing, bridging watercourses, replanting native vegetation, replacing culverts, etc., must be less than fifty percent of the acquisition cost of the project including any in-kind contribution by any party;

(c) The projects should be based on accepted methods of achieving beneficial enhancement or restoration results;

(d) The projects should enhance the viability of the preserved forest land to provide timber production while conforming to any legal requirements for habitat protection.

(14) Before November 1st of each even-numbered year, the board will recommend to the governor a prioritized list of all projects to be funded under this section. The governor may remove projects from the list recommended by the board and must submit this amended list in the capital budget request to the legislature. The list must include, but not be limited to, a description of each project and any particular match requirement.

NEW SECTION. **Sec. 11.** The allocations in sections 3, 4, and 5 of this act apply to the prioritized list of all projects submitted by November 1, 2016. The eligibility provisions in sections 4 and 5 of this act for nonprofit nature conservancies, as defined in RCW 84.34.250, and eligibility provisions in section 10 of this act are effective for projects submitted in 2016. The recreation and conservation funding board shall provide a prioritized list of projects to be funded under RCW 79A.15.130(2)(b) by November 1, 2017. All other provisions of this act apply to subsequent grant cycles.

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 Senate March 8, 2016.
Passed by the House March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 150

[Substitute Senate Bill 6238]

SCHEDULE II CONTROLLED SUBSTANCES--PRESCRIPTIONS--ALLOWABLE INDICATIONS

AN ACT Relating to the prescribing of schedule II controlled substances; amending RCW 69.50.402; and prescribing penalties.

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

Sec. 1. RCW 69.50.402 and 2013 c 19 s 107 are each amended to read as follows:

(1) It is unlawful for any person:

(a) Who is subject to Article III to distribute or dispense a controlled substance in violation of RCW 69.50.308;

(b) Who is a registrant, to manufacture a controlled substance not authorized by his or her registration, or to distribute or dispense a controlled substance not

authorized by his or her registration to another registrant or other authorized person;

(c) Who is a practitioner, to prescribe, order, dispense, administer, supply, or give to any person:

(i) Any amphetamine, including its salts, optical isomers, and salts of optical isomers classified as a schedule II controlled substance by the commission pursuant to chapter 34.05 RCW; or

(ii) Any nonnarcotic stimulant classified as a schedule II controlled substance and designated as a nonnarcotic stimulant by the commission pursuant to chapter 34.05 RCW;

except for the treatment of narcolepsy, or for the treatment of hyperkinesis, or for the treatment of drug-induced brain dysfunction, or for the treatment of epilepsy, or for the differential diagnostic psychiatric evaluation of depression, or for the treatment of depression shown to be refractory to other therapeutic modalities, or for the treatment of multiple sclerosis, or for the treatment of any other disease states or conditions for which the United States food and drug administration has approved an indication, or for the clinical investigation of the effects of such drugs or compounds, in which case an investigative protocol therefor shall have been submitted to and reviewed and approved by the commission before the investigation has been begun: PROVIDED, That the commission, in consultation with the medical quality assurance commission and the osteopathic disciplinary board, may establish by rule, pursuant to chapter 34.05 RCW, disease states or conditions in addition to those listed in this subsection for the treatment of which Schedule II nonnarcotic stimulants may be prescribed, ordered, dispensed, administered, supplied, or given to patients by practitioners: AND PROVIDED, FURTHER, That investigations by the commission of abuse of prescriptive authority by physicians, licensed pursuant to chapter 18.71 RCW, pursuant to subsection (1)(c) of this section shall be done in consultation with the medical quality assurance commission;

(d) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice, or information required under this chapter;

(e) To refuse an entry into any premises for any inspection authorized by this chapter; or

(f) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

(2) Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both.

Passed by the Senate March 8, 2016.

Passed by the House March 3, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.

CHAPTER 151

[Senate Bill 6296]

HABITAT AND RECREATION LANDS COORDINATING GROUP--EXPIRATION

AN ACT Relating to extending the expiration date of the habitat and recreation lands coordinating group; amending RCW 79A.25.260; and providing an expiration date.

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

Sec. 1. RCW 79A.25.260 and 2012 c 128 s 1 are each amended to read as follows:

(1) The habitat and recreation lands coordinating group is established. The group must include representatives from the office, the state parks and recreation commission, the department of natural resources, and the department of fish and wildlife. The members of the group must have subject matter expertise with the issues presented in this section. Representatives from appropriate stakeholder organizations and local government must also be considered for participation on the group, but may only be appointed or invited by the director.

(2) To ensure timely completion of the duties assigned to the group, the director shall submit yearly progress reports to the office of financial management.

(3) The group must:

(a) Review agency land acquisition and disposal plans and policies to help ensure statewide coordination of habitat and recreation land acquisitions and disposals;

(b) Produce an interagency, statewide biennial forecast of habitat and recreation land acquisition and disposal plans;

(c) Establish procedures for publishing the biennial forecast of acquisition and disposal plans on web sites or other centralized, easily accessible formats;

(d) Develop and convene an annual forum for agencies to coordinate their near-term acquisition and disposal plans;

(e) Develop a recommended method for interagency geographic information system-based documentation of habitat and recreation lands in cooperation with other state agencies using geographic information systems;

(f) Develop recommendations for standardization of acquisition and disposal recordkeeping, including identifying a preferred process for centralizing acquisition data;

(g) Develop an approach for monitoring the success of acquisitions;

(h) Identify and commence a dialogue with key state and federal partners to develop an inventory of potential public lands for transfer into habitat and recreation land management status; and

(i) Review existing and proposed habitat conservation plans on a regular basis to foster statewide coordination and save costs.

(4) If prioritization among the various requirements of subsection (3) of this section is necessary due to the availability of resources, the group shall prioritize implementation of subsection (3)(a) through (d) and (g) of this section.

(5) The group shall revisit the planning requirements of relevant grant programs administered by the office to determine whether coordination of state agency habitat and recreation land acquisition and disposal could be improved by modifying those requirements.

(6) The group must develop options for centralizing coordination of habitat and recreation land acquisition made with funds from federal grants. The advantages and drawbacks of the following options, at a minimum, must be developed:

(a) Requiring that agencies provide early communication on the status of federal grant applications to the office, the office of financial management, or directly to the legislature;

(b) Establishing a centralized pass-through agency for federal funds, where individual agencies would be the primary applicants.

(7) This section expires July 31, ((~~2017~~)) 2027. Prior to January 1, ((~~2017~~)) 2027, the group shall make a formal recommendation to the board and the appropriate committees of the legislature as to whether the existence of the habitat and recreation lands coordinating group should be continued beyond July 31, ((~~2017~~)) 2027, and if so, whether any modifications to its enabling statute should be pursued.

Passed by the Senate February 5, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 152

[Engrossed Senate Bill 6349]

PUBLIC FUNDS, DEPOSITS, AND INVESTMENTS

AN ACT Relating to public funds and deposits; amending RCW 39.58.010, 39.58.050, 39.58.105, 39.58.108, 39.58.135, 39.58.155, 28B.07.040, 39.59.010, 39.59.020, 39.60.010, 39.60.020, 39.60.030, 39.60.040, 39.60.050, and 43.84.080; reenacting and amending RCW 43.250.020; adding a new section to chapter 39.59 RCW; adding a new section to chapter 28B.10 RCW; and repealing RCW 39.58.120, 39.58.045, 39.59.030, and 43.250.090.

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

Sec. 1. RCW 39.58.010 and 2009 c 9 s 1 are each amended to read as follows:

In this chapter, unless the context otherwise requires:

(1) "Capitalization" means the measure or measures of capitalization, other than net worth, of a depositary applying for designation as or operating as a public depositary pursuant to this chapter, based upon regulatory standards of financial institution capitalization adopted by rule or resolution of the commission after consultation with the director of the department of financial institutions;

(2) "Collateral" means the particular assets pledged as security to insure payment or performance of the obligations under this chapter as enumerated in RCW 39.58.050;

(3) "Commission" means the Washington public deposit protection commission created under RCW 39.58.030;

(4) "Commission report" means a formal accounting rendered by all public depositaries to the commission in response to a demand for specific information made by the commission detailing pertinent affairs of each public depositary as of the close of business on a specified date, which is the "commission report

date." "Commission report due date" is the last day for the timely filing of a commission report;

(5) "Depositary pledge agreement" means a tripartite agreement executed by the commission with a financial institution and its designated trustee. Such agreement shall be approved by the directors or the loan committee of the financial institution and shall continuously be a record of the financial institution. New securities may be pledged under this agreement in substitution of or in addition to securities originally pledged without executing a new agreement;

(6) "Director of the department of financial institutions" means the Washington state director of the department of financial institutions;

(7) "Eligible collateral" means the securities ((~~which are~~)) or letters of credit enumerated in RCW 39.58.050 (5) ((~~and~~)), (6) ((~~as eligible collateral for public deposits~~)), and (7);

(8) "Financial institution" means any national or state chartered commercial bank or trust company, savings bank, or savings association, or branch or branches thereof, located in this state and lawfully engaged in business;

(9) "Investment deposits" means time deposits, money market deposit accounts, and savings deposits of public funds available for investment. "Investment deposits" do not include time deposits represented by a transferable or a negotiable certificate, instrument, passbook, or statement, or by book entry or otherwise;

(10) "Liquidity" means the measure or measures of liquidity of a depositary applying for designation as or operating as a public depositary pursuant to this chapter, based upon regulatory standards of financial institution liquidity adopted by rule or resolution of the commission after consultation with the director of the department of financial institutions;

(11) "Loss" means the issuance of an order by a regulatory or supervisory authority or a court of competent jurisdiction (a) restraining a public depositary from making payments of deposit liabilities or (b) appointing a receiver for a public depositary;

(12) "Maximum liability," with reference to a public depositary's liability under this chapter for loss per occurrence by another public depositary, on any given date means:

(a) A sum equal to ten percent of:

(i) All uninsured public deposits held by a public depositary that has not incurred a loss by the then most recent commission report date; or

(ii) The average of the balances of said uninsured public deposits on the last four immediately preceding reports required pursuant to RCW 39.58.100, whichever amount is greater; or

(b) Such other sum or measure as the commission may from time to time set by resolution according to criteria established by rule, consistent with the commission's broad administrative discretion to achieve the objective of RCW 39.58.020.

As long as the uninsured public deposits of a public depositary are one hundred percent collateralized by eligible collateral as provided for in RCW 39.58.050, the "maximum liability" of a public depositary that has not incurred a loss may not exceed the amount set forth in (a) of this subsection.

This definition of "maximum liability" does not limit the authority of the commission to adjust the collateral requirements of public depositaries pursuant to RCW 39.58.040;

(13) "Net worth" of a public depositary means (a) the equity capital as reported to its primary regulatory authority on the quarterly report of condition or statement of condition, or other required report required by its primary regulatory authority or federal deposit insurer, and may include capital notes and debentures which are subordinate to the interests of depositors, or (b) equity capital adjusted by rule or resolution of the commission after consultation with the director of the department of financial institutions;

(14) "Public deposit" means public funds on deposit with a public depositary;

(15) "Public depositary" means a financial institution ((~~which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which~~)) that has been approved by the commission to hold public deposits, ((~~and which~~)) has segregated, for the benefit of the commission, eligible collateral having a value of not less than its maximum liability, and, unless otherwise provided for in this chapter, does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state;

(16) "Public funds" means moneys under the control of a treasurer, the state treasurer, or custodian belonging to, or held for the benefit of, the state or any of its political subdivisions, public corporations, municipal corporations, agencies, courts, boards, commissions, or committees, including moneys held as trustee, agent, or bailee belonging to, or held for the benefit of, the state or any of its political subdivisions, public corporations, municipal corporations, agencies, courts, boards, commissions, or committees;

(17) "Public funds available for investment" means such public funds as are in excess of the anticipated cash needs throughout the duration of the contemplated investment period;

(18) "State public depositary" means a Washington state-chartered financial institution that is authorized as a public depositary under this chapter;

(19) "State treasurer" means the treasurer of the state of Washington;

(20) "Treasurer" means a county treasurer, a city treasurer, a treasurer of any other municipal corporation, and any other custodian of public funds, except the state treasurer;

(21) "Trustee" means a third-party safekeeping agent which has completed a depositary pledge agreement with a public depositary and the commission. Such third-party safekeeping agent may be ((~~the federal reserve bank of San Francisco, the~~)) a federal home loan bank ((~~of Seattle~~)), or such other third-party safekeeping agent approved by the commission.

Sec. 2. RCW 39.58.050 and 2009 c 9 s 4 are each amended to read as follows:

(1) Every public depositary shall complete a depositary pledge agreement with the commission and a trustee, and shall at all times maintain, segregated from its other assets, eligible collateral ((~~in the form of securities enumerated in this section~~)) having a value at least equal to its maximum liability and as otherwise prescribed in this chapter. ((~~Such~~)) Eligible securities used as collateral shall be segregated by deposit with the depositary's trustee and shall be

clearly designated as security for the benefit of public depositors under this chapter.

(2) Securities eligible as collateral shall be valued at market value, and the total market value of securities pledged in accordance with this chapter shall not be reduced by withdrawal or substitution of securities except by prior authorization, in writing, by the commission.

(3) The public depositary shall have the right to make substitutions of an equal or greater amount of ((~~such collateral~~)) eligible securities at any time.

(4) The income from the securities which have been segregated as collateral shall belong to the public depositary without restriction.

(5) Each of the following enumerated classes of securities, providing there has been no default in the payment of principal or interest thereon, shall be eligible to qualify as collateral:

(a) Certificates, notes or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States;

(b) State, county, municipal, or school district bonds or warrants of taxing districts of the state of Washington or any other state of the United States, provided that such bonds and warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations;

(c) The obligations of any United States government-sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(d) Bonds, notes, ((~~letters of credit,~~)) or other securities or evidence of indebtedness constituting the direct and general obligation of a federal home loan bank or federal reserve bank;

(e) Revenue bonds of this state or any authority, board, commission, committee, or similar agency thereof, and any municipality or taxing district of this state;

(f) Direct and general obligation bonds and warrants of any city, town, county, school district, port district, or other political subdivision of any state, having the power to levy general taxes, which are payable from general ad valorem taxes;

(g) Bonds issued by public utility districts as authorized under the provisions of Title 54 RCW, as now or hereafter amended;

(h) Bonds of any city of the state of Washington for the payment of which the entire revenues of the city's water system, power and light system, or both, less maintenance and operating costs, are irrevocably pledged, even though such bonds are not general obligations of such city.

(6) In addition to the securities enumerated in this section, ((~~every~~)) the commission may also accept as collateral a letter of credit from a federal home loan bank or a federal reserve bank on behalf of a public depositary, naming the commission as beneficiary. Such letters are not subject to a completed depositary pledge agreement. As such, the commission must act as the safekeeping agent for letters of credit.

(7) A public depositary may also segregate such bonds, securities, and other obligations as are designated to be authorized security for public deposits under the laws of this state.

((~~(7)~~)) (8) The commission may determine by rule or resolution whether any security, whether or not enumerated in this section, is or shall remain eligible as collateral when in the commission's judgment it is desirable or necessary to do so.

Sec. 3. RCW 39.58.105 and 2009 c 9 s 9 are each amended to read as follows:

(1) The commission may require the state auditor or the director of the department of financial institutions, to the extent of their respective authority under applicable federal and Washington state law, to thoroughly investigate and report to it concerning the condition of any financial institution which makes application to become a public depositary, and may also as often as it deems necessary require the state auditor or the director of the department of financial institutions, to the extent of their respective authority under applicable federal and Washington state law, to make such investigation and report concerning the condition of any financial institution which has been designated as a public depositary. The expense of all such investigations or reports shall be borne by the financial institution examined.

(2) In lieu of any such investigation or report, the commission may rely upon information made available to it or the director of the department of financial institutions by the office of the comptroller of the currency, ((~~the office of thrift supervision,~~)) the federal deposit insurance corporation, the federal reserve board, any state financial institutions regulatory agency, or any successor state or federal financial institutions regulatory agency, and any such information or data received by the commission shall be kept and maintained in the same manner and have the same protections as examination reports received by the commission from the director of the department of financial institutions pursuant to RCW ((~~30.04.075~~)) 30A.04.075(2)(h) and 32.04.220(2)(h).

(3) The director of the department of financial institutions shall in addition advise the commission of any action he or she has directed any state public depositary to take which will result in a reduction of greater than ten percent of the net worth of such depositary as shown on the most recent report it submitted pursuant to RCW 39.58.100.

Sec. 4. RCW 39.58.108 and 2009 c 9 s 10 are each amended to read as follows:

Any financial institution may become, and thereafter operate as, a public depositary upon approval by the commission and segregation of collateral in the manner as set forth in this chapter, and subject to compliance with all rules and policies adopted by the commission. A public depositary shall at all times pledge and segregate eligible ((~~securities~~)) collateral in an amount established by the commission by rule or noticed resolution.

Sec. 5. RCW 39.58.135 and 2009 c 9 s 12 are each amended to read as follows:

Notwithstanding RCW 39.58.130, (1) aggregate deposits received by a public depositary from all treasurers and the state treasurer shall not exceed at any time one hundred fifty percent of the value of the depositary's net worth, nor

(2) shall the aggregate deposits received by any public depositary exceed thirty percent of the total aggregate deposits of all public treasurers in all depositaries as determined by the ((~~public deposit protection~~)) commission. However, a public depositary may receive deposits in excess of the limits provided in this section if eligible ((~~securities~~)) collateral, as prescribed in RCW 39.58.050, are pledged ((~~as collateral~~)) in an amount equal to one hundred percent of the value of deposits received in excess of the limitations prescribed in this section.

Sec. 6. RCW 39.58.155 and 1999 c 293 s 3 are each amended to read as follows:

A statewide custodian under RCW 43.08.280 may be exempted from the requirements of this chapter, based on rules adopted by the ((~~public deposit protection~~)) commission.

NEW SECTION. **Sec. 7.** The following acts or parts of acts are each repealed:

(1) RCW 39.58.120 (Interest rates) and 1974 ex.s. c 50 s 1 & 1969 ex.s. c 193 s 12; and

(2) RCW 39.58.045 (Financial institutions claiming exemption from sales, use or ad valorem taxes—Notification of commission) and 1983 c 66 s 4.

Sec. 8. RCW 28B.07.040 and 2012 c 229 s 508 are each amended to read as follows:

The authority is authorized and empowered to do the following, on such terms, with such security and undertakings, subject to such conditions, and in return for such consideration, as the authority shall determine in its discretion to be necessary, useful, or convenient in accomplishing the purposes of this chapter:

(1) To promulgate rules in accordance with chapter 34.05 RCW;

(2) To adopt an official seal and to alter the same at pleasure;

(3) To maintain an office at any place or places as the authority may designate;

(4) To sue and be sued in its own name, and to plead and be impleaded;

(5) To make and execute agreements with participants and others and all other instruments necessary, useful, or convenient for the accomplishment of the purposes of this chapter;

(6) To provide long-term or short-term financing or refinancing to participants for project costs, by way of loan, lease, conditional sales contract, mortgage, option to purchase, or other financing or security device or any such combination;

(7) If, in order to provide to participants the financing or refinancing of project costs described in subsection (6) of this section, the authority deems it necessary or convenient for it to own a project or projects or any part of a project or projects, for any period of time, it may acquire, contract, improve, alter, rehabilitate, repair, manage, operate, mortgage, subject to a security interest, lease, sell, or convey the project;

(8) To fix, revise from time to time, and charge and collect from participants and others rates, rents, fees, charges, and repayments as necessary to fully and timely reimburse the authority for all expenses incurred by it in providing the financing and refinancing and other services under this section and for the repayment, when due, of all the principal of, redemption premium, if any, and

interest on all bonds issued under this chapter to provide the financing, refinancing, and services;

(9) To accept and receive funds, grants, gifts, pledges, guarantees, mortgages, trust deeds, and other security instruments, and property from the federal government or the state or other public body, entity, or agency and from any public or private institution, association, corporation, or organization, including participants. It shall not accept or receive from the state or any taxing agency any money derived from taxes, except money to be devoted to the purposes of a project of the state or of a taxing agency;

(10) To open and maintain a bank account or accounts in one or more qualified public depositories in this state and to deposit all or any part of authority funds therein;

(11) To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, an executive director, and such other employees and agents as may be necessary in its judgment to carry out the purposes of this chapter, and to fix their compensation;

(12) To provide financing or refinancing to two or more participants for a single project or for several projects in such combinations as the authority deems necessary, useful, or convenient;

(13) To charge to and equitably apportion among participants the administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter;

(14) To consult with the student achievement council to determine project priorities under the purposes of this chapter; ((~~and~~))

(15) Provide for the investment of any funds, including funds held in reserve, not required for immediate disbursement, and provide for the selection of investments; and

(16) To do all other things necessary, useful, or convenient to carry out the purposes of this chapter.

In the exercise of any of these powers, the authority shall incur no expense or liability which shall be an obligation, either general or special, of the state, or a general obligation of the authority, and shall pay no expense or liability from funds other than funds of the authority. Funds of the state shall not be used for such purpose.

Sec. 9. RCW 39.59.010 and 2015 c 225 s 50 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 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 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~~)) any state in the United States, other than the state of Washington.

Sec. 10. RCW 39.59.020 and 1988 c 281 s 2 are each amended to read as follows:

((~~In addition to any other investment authority granted by law and notwithstanding any provision of law to the contrary, the state of Washington and~~)) (1) Local governments in the state of Washington are authorized to invest their funds and money in their custody or possession, eligible for investment, in((~~:~~

~~(1) Bonds of the state of Washington and any local government in the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;~~

~~(2) General obligation bonds of a state other than the state of Washington and general obligation bonds of a local government of a state other than the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;~~

~~(3) Subject to compliance with RCW 39.56.030, registered warrants of a local government in the same county as the government making the investment; or~~

~~(4) Any investments authorized by law for the treasurer of the state of Washington or any local government of the state of Washington other than a metropolitan municipal corporation but, except as provided in chapter 39.58 RCW, such investments shall not include certificates of deposit of banks or bank branches not located in the state of Washington~~)) investments authorized by this chapter.

(2) Nothing in this section is intended to limit or otherwise restrict a local government from investing in additional authorized investments if that local government has specific authority to do so.

NEW SECTION. **Sec. 11.** A new section is added to chapter 39.59 RCW to read as follows:

Any local government in the state of Washington may invest in:

(1) Bonds of the state of Washington and any local government in the state of Washington;

(2) General obligation bonds of a state and general obligation bonds of a local government of a state, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(3) Subject to compliance with RCW 39.56.030, registered warrants of a local government in the same county as the government making the investment;

(4) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States; or United States dollar denominated bonds, notes, or other obligations that are issued or guaranteed by supranational institutions, provided that, at the time of investment, the institution has the United States government as its largest shareholder;

(5) Federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(6) Bankers' acceptances purchased on the secondary market;

(7) Commercial paper purchased in the secondary market, provided that any local government of the state of Washington that invests in such commercial paper must adhere to the investment policies and procedures adopted by the state investment board; and

(8) Corporate notes purchased on the secondary market, provided that any local government of the state of Washington that invests in such notes must adhere to the investment policies and procedures adopted by the state investment board.

NEW SECTION. **Sec. 12.** RCW 39.59.030 (Authorized investments—Mutual funds and money market funds) and 1988 c 281 s 3 are each repealed.

Sec. 13. RCW 39.60.010 and 1939 c 32 s 1 are each amended to read as follows:

Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be lawful ((~~for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivision of the state, or any political or public corporation of the state, or~~)) for any insurance company, savings and loan association, or for any bank, trust company or other financial institution, operating under the laws of the state of Washington, or for any executor, administrator, guardian or conservator, trustee or other fiduciary to invest its funds or the moneys in its custody or possession, eligible for investment, in notes or bonds secured by mortgage which the Federal Housing Administrator has insured or has made a commitment to insure in obligations of national mortgage associations, in debentures issued by the Federal Housing Administrator, and in the bonds of the Home Owner's Loan Corporation, a corporation organized under and by virtue of the authority granted in H.R. 5240, designated as the Home Owner's Loan Act of 1933, passed by the congress of the United States and approved June 13, 1933, and in bonds of any other corporation which is or hereafter may be created by the United States, as a governmental agency or instrumentality.

Sec. 14. RCW 39.60.020 and 1933 ex.s. c 37 s 2 are each amended to read as follows:

Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be also lawful ((~~for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivisions of the state, or any political or public corporation of the state, or~~)) for any insurance company, savings and loan association, building and loan association, or for any bank, trust company or other financial institution, operating under the laws of the state of Washington, or for any executor, administrator, guardian or conservator, trustee or other fiduciary, to exchange any mortgages, contracts, judgments or liens owned or held by it, for the bonds of the Home Owners' Loan Corporation, a corporation organized under and by virtue of the authority granted in H.R. 5240, designated as The Home Owners' Loan Act of 1933, passed by the congress of the United States and approved June 13, 1933, or for the bonds of any other corporation which is or hereafter may be created by the United States as a governmental agency or instrumentality; and to accept said bonds at their par value in any such exchange.

Sec. 15. RCW 39.60.030 and 1939 c 32 s 2 are each amended to read as follows:

Wherever, by statute of this state, collateral is required as security for the deposit of ((~~public or other~~)) funds; or deposits are required to be made with any public official or department; or an investment of capital or surplus, or a reserve or other fund is required to be maintained consisting of designated securities, the bonds and other securities herein made eligible for investment shall also be eligible for such purpose.

Sec. 16. RCW 39.60.040 and 1967 ex.s. c 48 s 1 are each amended to read as follows:

The obligations issued pursuant to said Federal Home Loan Bank Act and to said Title IV of the National Housing Act as such acts are now or hereafter amended, and the shares, deposits or accounts of any institution which has the insurance protection provided by Title IV of the National Housing Act, as now or hereafter amended, may be used at face value or withdrawal value, and bonds or other interest bearing obligations as to which the payment of some but less than the full principal and interest is guaranteed by the United States of America or any agency thereof may be used to the extent of the portion so guaranteed, wherever, by statute of this state or otherwise, collateral is required as security for the deposit of ((~~public or other~~)) funds, or deposits are required to be made with any public official or department, or an investment of capital or surplus, or a reserve or other fund, is required to be maintained consisting of designated security, or wherever by statute of this state or otherwise, any surety, whether personal, corporate, or otherwise, or any collateral or security, is required or permitted for any purpose, including without limitation on the generality of the foregoing, any bond, recognizance, or undertaking.

Sec. 17. RCW 39.60.050 and 1970 ex.s. c 93 s 1 are each amended to read as follows:

Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be lawful ((~~for the state of Washington and~~

~~any of its departments, institutions and agencies, municipalities, districts, and any other political subdivision, or any political or public corporation of the state, or~~)) for any executor, administrator, guardian, or conservator, trustee or other fiduciary, to invest its funds or the moneys in its custody or possession, eligible for investment, in notes, bonds, or debentures of savings and loan associations, banks, mutual savings banks, savings and loan service corporations operating with approval of the federal home loan bank, and corporate mortgage companies: PROVIDED, That the notes, bonds or debentures are rated not less than "A" by a nationally recognized rating agency, or are insured or guaranteed by an agency of the federal government or by private insurer authorized to do business in the state: PROVIDED FURTHER, That the notes, bonds and debentures insured or guaranteed by a private insurer shall also be backed by a pool of mortgages equal to the amount of the notes, bonds or debentures.

Sec. 18. RCW 43.84.080 and 1982 c 148 s 1 are each amended to read as follows:

Wherever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, the state treasurer may invest or reinvest such portion of such funds or balances as the state treasurer deems expedient in the following ((~~defined securities or classes of investments~~)):

(1) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States or United States dollar denominated bonds, notes, or other obligations that are issued or guaranteed by supranational institutions, provided that, at the time of investment, the institution has the United States government as its largest shareholder;

(2) In state, county, municipal, or school district bonds, notes, or in warrants of taxing districts of the state. Such bonds and warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations. The state treasurer may purchase such bonds or warrants directly from the taxing district or in the open market at such prices and upon such terms as it may determine, and may sell them at such times as it deems advisable;

(3) ((~~In motor vehicle fund warrants when authorized by agreement between the state treasurer and the department of transportation requiring repayment of invested funds from any moneys in the motor vehicle fund available for state highway construction;~~

~~(4)~~)) In federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(((~~(5)~~))) (4) Bankers' acceptances purchased on the secondary market;

(((~~(6) Negotiable certificates of deposit of any national or state commercial or mutual savings bank or savings and loan association doing business in the United States: PROVIDED, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board;~~

~~(7)~~)) (5) Commercial paper((~~: PROVIDED,~~)) purchased on the secondary market, provided that the state treasurer ((~~shall~~)) adheres to the investment policies and procedures adopted by the state investment board;

(6) General obligation bonds of any state and general obligation bonds of local governments of other states, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency; and

(7) Corporate notes purchased on the secondary market, provided that the state treasurer adheres to the investment policies and procedures adopted by the state investment board.

Sec. 19. RCW 43.250.020 and 2010 1st sp.s. c 10 s 2 are each reenacted and amended to read as follows:

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

(1) "Authorized tribal official" means any officer or employee of a qualifying federally recognized tribe who has been expressly designated by tribal constitution, ordinance, or resolution as the officer having the authority to invest the funds of the qualifying federally recognized tribe or federally recognized political subdivisions thereof.

(2) "Eligible governmental entity" means any county, city, town, municipal corporation, quasi-municipal corporation, public corporation, political subdivision, or special purpose taxing district in the state, an instrumentality of any of the foregoing governmental entities created under chapter 39.34 RCW, any agency of state government, any entity issuing or executing and delivering bonds or certificates of participation with respect to financing contracts approved by the state finance committee under RCW 39.94.040, and any qualifying federally recognized tribe or federally recognized political subdivisions thereof.

(3) "Financial officer" means the board-appointed treasurer of a community or technical college district, the state board for community and technical colleges, or a public four-year institution of higher education.

(4) "Funds" means:

(a) Funds of an eligible governmental entity under the control of or in the custody of any government finance official or local funds, as defined by the office of financial management publication "Policies, Regulations and Procedures," under the control of or in the custody of a financial officer by virtue of the official's authority that are not immediately required to meet current demands((~~:~~

~~(b) State funds deposited in the investment pool by the state treasurer that are the proceeds of bonds, notes, or other evidences of indebtedness authorized by the state finance committee under chapter 39.42 RCW, or the proceeds of bonds or certificates of participation with respect to financing contracts approved by the state finance committee under RCW 39.94.040, or payments pursuant to financing contracts under chapter 39.94 RCW, when the investments are made in order to comply with the Internal Revenue Code of 1986, as amended~~)); and

(((~~(c)~~))) (b) Tribal funds under the control of or in the custody of any qualifying federally recognized tribe or federally recognized political subdivisions thereof, where the tribe warrants that the use or disposition of the

funds are either not subject to, or are used and deposited with federal approval, and where the tribe warrants that the funds are not immediately required to meet current demands.

(5) "Government finance official" means any officer or employee of an eligible governmental entity who has been designated by statute or by local charter, ordinance, resolution, or other appropriate official action, as the officer having the authority to invest the funds of the eligible governmental entity. However, the county treasurer shall be deemed the only government finance official for all public agencies for which the county treasurer has exclusive statutory authority to invest the funds thereof.

(6) "Public funds investment account" or "investment pool" means the aggregate of all funds as defined in subsection (4) of this section that are placed in the custody of the state treasurer for investment and reinvestment.

(7) "Qualifying federally recognized tribe or federally recognized political subdivisions thereof" means any federally recognized tribe, located in the state of Washington, authorized and empowered by its constitution or ordinance to invest its surplus funds pursuant to this section, and whose authorized tribal official has executed a deposit agreement with the office of the treasurer.

NEW SECTION. **Sec. 20.** RCW 43.250.090 (Administration of chapter—Rules) and 1986 c 294 s 9 are each repealed.

NEW SECTION. **Sec. 21.** A new section is added to chapter 28B.10 RCW to read as follows:

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

(a) "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.

(b) "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.

(c) "State" includes any state in the United States, other than the state of Washington.

(2) In addition to any other statutorily authorized investments permissible pursuant to chapters 28B.20, 28B.30, 28B.35, 28B.40, and 28B.50 RCW, institutions of higher education may invest in:

(a) Bonds of the state of Washington and any local government in the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(b) General obligation bonds of a state and general obligation bonds of a local government of a state, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(c) Subject to compliance with RCW 39.56.030, registered warrants of a local government in the same county as the institution of higher education making the investment;

(d) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States; or United States dollar denominated bonds, notes, or other obligations that are issued or guaranteed by supranational institutions, provided that, at the time of investment, the institution has the United States government as its largest shareholder;

(e) Federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(f) Bankers' acceptances purchased on the secondary market;

(g) Commercial paper purchased in the secondary market, provided that any institution of higher education that invests in such commercial paper must adhere to the investment policies and procedures adopted by the state investment board; and

(h) Corporate notes purchased on the secondary market, provided that any institution of higher education that invests in such notes must adhere to the investment policies and procedures adopted by the state investment board.

(3) Nothing in this section limits the investment authority granted pursuant to chapters 28B.20, 28B.30, 28B.35, 28B.40, and 28B.50 RCW.

Passed by the Senate March 9, 2016.
Passed by the House March 4, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 153

[Engrossed Substitute Senate Bill 6356]

PRIVATE CLOUD SERVICE PROVIDERS--CRIMINAL JUSTICE INFORMATION SERVICES--DISCLOSURE OF CERTAIN INFORMATION

AN ACT Relating to disclosure of personally identifying information and security information of private cloud service providers; and amending RCW 42.56.420.

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

Sec. 1. RCW 42.56.420 and 2013 2nd sp.s. c 33 s 9 are each amended to read as follows:

The following information relating to security is exempt from disclosure under this chapter:

(1) Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of:

(a) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in

preparation of or essential to the assessments, or to the response or deployment plans; and

(b) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism;

(2) Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, or secure facility for persons civilly confined under chapter 71.09 RCW, the public disclosure of which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility, secure facility for persons civilly confined under chapter 71.09 RCW, or any individual's safety;

(3) Information compiled by school districts or schools in the development of their comprehensive safe school plans under RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school;

(4) Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities, and other such information the release of which may increase risk to the confidentiality, integrity, or availability of agency security, information technology infrastructure, or assets; ((~~and~~))

(5) The system security and emergency preparedness plan required under RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180; and

(6) Personally identifiable information of employees, and other security information, of a private cloud service provider that has entered into a criminal justice information services agreement as contemplated by the United States department of justice criminal justice information services security policy, as authorized by 28 C.F.R. Part 20.

Passed by the Senate February 16, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 154

[Substitute Senate Bill 6430]

MEDICAL ASSISTANCE PROGRAMS--CONTINUITY OF CARE--INCARCERATION

AN ACT Relating to providing continuity of care for recipients of medical assistance during periods of incarceration; amending RCW 70.48.100; adding new sections to chapter 74.09 RCW; adding a new section to chapter 71.24 RCW; and creating new sections.

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

NEW SECTION. **Sec. 1.** Persons with mental illness and persons with substance use disorders in the custody of the criminal justice system need

seamless access to community treatment networks and medical assistance upon release from custody to prevent gaps in treatment and reduce barriers to accessing care. Access to care is critical to reduce recidivism and reduce costs associated with relapse, decompensation, and crisis care. In accord with the recommendations of the adult behavioral health system task force, persons should be allowed to apply or retain their enrollment in medical assistance during periods of incarceration. The legislature intends for the Washington state health care authority and the department of social and health services to raise awareness of best clinical practices to engage persons with behavioral health disorders and other chronic conditions during periods of incarceration and confinement to highlight opportunities for good preventive care and standardize reporting and payment practices for services reimbursable by federal law that support the safe transition of the person back into the community.

NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09 RCW to read as follows:

The authority is directed to suspend, rather than terminate, medical assistance benefits by July 1, 2017, for persons who are incarcerated or committed to a state hospital. This must include the ability for a person to apply for medical assistance in suspense status during incarceration, and may not depend upon knowledge of the release date of the person. The authority must provide a progress report describing program design and a detailed fiscal estimate to the governor and relevant committees of the legislature by December 1, 2016.

NEW SECTION. **Sec. 3.** A new section is added to chapter 71.24 RCW to read as follows:

The department and the Washington state health care authority shall publish written guidance and provide trainings to behavioral health organizations, managed care organizations, and behavioral health providers related to how these organizations may provide outreach, assistance, transition planning, and rehabilitation case management reimbursable under federal law to persons who are incarcerated, involuntarily hospitalized, or in the process of transitioning out of one of these services. The guidance and trainings may also highlight preventive activities not reimbursable under federal law which may be cost-effective in a managed care environment. The purpose of this written guidance and trainings is to champion best clinical practices including, where appropriate, use of care coordination and long-acting injectable psychotropic medication, and to assist the health community to leverage federal funds and standardize payment and reporting procedures. The authority and the department shall construe governing laws liberally to effectuate the broad remedial purposes of this act, and provide a status update to the legislature by December 31, 2016.

NEW SECTION. **Sec. 4.** A new section is added to chapter 74.09 RCW to read as follows:

The authority shall collaborate with the department, the Washington state association of counties, the Washington association of sheriffs and police chiefs, and accountable communities of health to improve population health and reduce avoidable use of intensive services and settings by requesting expenditure authority from the federal government to provide behavioral health services to persons who are incarcerated in local jails. The authority in consultation with its

partners may narrow its submission to discrete programs or regions of the state as deemed advisable to effectively demonstrate the potential to achieve savings by integrating medical assistance across community and correctional settings.

NEW SECTION. **Sec. 5.** A new section is added to chapter 74.09 RCW to read as follows:

It is the understanding of the legislature that persons participating in a work release program or other partial confinement programs at the state, county, or city level which allow regular freedom during the day to pursue rehabilitative community activities such as participation in work, treatment, or medical care should not be considered "inmates of a public institution" for the purposes of exclusion from medicaid coverage under the social security act. The authority is instructed to obtain any permissions from the federal government necessary to confirm this understanding, and report back to the governor and relevant committees of the legislature.

Sec. 6. RCW 70.48.100 and 2014 c 225 s 105 are each amended to read as follows:

(1) A department of corrections or chief law enforcement officer responsible for the operation of a jail shall maintain a jail register, open to the public, into which shall be entered in a timely basis:

(a) The name of each person confined in the jail with the hour, date and cause of the confinement; and

(b) The hour, date and manner of each person's discharge.

(2) Except as provided in subsection (3) of this section, the records of a person confined in jail shall be held in confidence and shall be made available only to criminal justice agencies as defined in RCW 43.43.705; or

(a) For use in inspections made pursuant to RCW 70.48.070;

(b) In jail certification proceedings;

(c) For use in court proceedings upon the written order of the court in which the proceedings are conducted;

(d) To the Washington association of sheriffs and police chiefs;

(e) To the Washington institute for public policy, research and data analysis division of the department of social and health services, higher education institutions of Washington state, Washington state health care authority, state auditor's office, caseload forecast council, office of financial management, or the successor entities of these organizations, for the purpose of research in the public interest. Data disclosed for research purposes must comply with relevant state and federal statutes; ((~~or~~))

(f) To federal, state, or local agencies to determine eligibility for services such as medical, mental health, chemical dependency treatment, or veterans' services, and to allow for the provision of treatment to inmates during their stay or after release. Records disclosed for eligibility determination or treatment services must be held in confidence by the receiving agency, and the receiving agency must comply with all relevant state and federal statutes regarding the privacy of the disclosed records; or

(g) Upon the written permission of the person.

(3)(a) Law enforcement may use booking photographs of a person arrested or confined in a local or state penal institution to assist them in conducting investigations of crimes.

(b) Photographs and information concerning a person convicted of a sex offense as defined in RCW 9.94A.030 may be disseminated as provided in RCW 4.24.550, 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 43.43.745, 46.20.187, 70.48.470, 72.09.330, and section 401, chapter 3, Laws of 1990.

(4) Any jail that provides inmate records in accordance with subsection (2) of this section is not responsible for any unlawful secondary dissemination of the provided inmate records.

NEW SECTION. **Sec. 7.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2016, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 7, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 155

[Substitute Senate Bill 6445]

PHYSICIAN ASSISTANTS--MENTAL HEALTH SERVICES

AN ACT Relating to clarifying the role of physician assistants in the delivery of mental health services; amending RCW 71.05.215, 71.05.217, 71.05.230, 71.05.290, 71.05.300, 71.05.360, 71.05.660, 71.06.040, 71.12.540, 71.32.110, 71.32.140, 71.32.250, 71.32.260, 71.34.020, 71.34.355, 71.34.720, 71.34.730, 71.34.750, 71.34.770, 18.71A.030, and 18.57A.030; and reenacting and amending RCW 71.05.020, 71.05.210, and 71.24.025.

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

Sec. 1. RCW 71.05.020 and 2015 c 269 s 14 and 2015 c 250 s 2 are each reenacted and amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "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, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(14) "Developmental disability" means that condition defined in RCW 71A.10.020(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 RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(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) "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;

(22) "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;

(23) "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;

(24) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(25) "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;

(26) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

(27) "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;

(28) "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;

(29) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(30) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(31) "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;

(32) "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;

(33) "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;

(34) "Professional person" means a mental health professional and shall also mean a physician, physician assistant, psychiatric advanced registered nurse

practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(35) "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;

(36) "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;

(37) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(38) "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;

(39) "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;

(40) "Release" means legal termination of the commitment under the provisions of this chapter;

(41) "Resource management services" has the meaning given in chapter 71.24 RCW;

(42) "Secretary" means the secretary of the department of social and health services, or his or her designee;

(43) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(44) "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;

(45) "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;

(46) "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;

(47) "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;

(48) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property;

(49) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW.

Sec. 2. RCW 71.05.210 and 2015 c 269 s 7 and 2015 c 250 s 20 are each reenacted and amended to read as follows:

(1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility ((~~(1)~~)):

(a) Shall, within twenty-four hours of his or her admission or acceptance at the facility, not counting time periods prior to medical clearance, be examined and evaluated by (((~~(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~~)):

(i) One physician and a mental health professional;

(ii) One physician assistant and a mental health professional; or

(iii) One advanced registered nurse practitioner and a mental health professional; and

(((~~(2)~~))) (b) Shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (((~~(a)~~))) (i) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (((~~(b)~~))) (ii) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to seventy-two hours, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

(2) If, after examination and evaluation, the mental health professional and licensed physician, physician assistant, 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.

(3) 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. 3. RCW 71.05.215 and 2008 c 156 s 2 are each amended to read as follows:

(1) A person found to be gravely disabled or presents a likelihood of serious harm as a result of a mental disorder has a right to refuse antipsychotic medication unless it is determined that the failure to medicate may result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication in the best interest of that person.

(2) The department shall adopt rules to carry out the purposes of this chapter. These rules shall include:

(a) An attempt to obtain the informed consent of the person prior to administration of antipsychotic medication.

(b) For short-term treatment up to thirty days, the right to refuse antipsychotic medications unless there is an additional concurring medical opinion approving medication by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority.

(c) For continued treatment beyond thirty days through the hearing on any petition filed under RCW 71.05.217, the right to periodic review of the decision to medicate by the medical director or designee.

(d) Administration of antipsychotic medication in an emergency and review of this decision within twenty-four hours. An emergency exists if the person presents an imminent likelihood of serious harm, and medically acceptable alternatives to administration of antipsychotic medications are not available or are unlikely to be successful; and in the opinion of the physician, physician assistant, or psychiatric advanced registered nurse practitioner, the person's condition constitutes an emergency requiring the treatment be instituted prior to obtaining a second medical opinion.

(e) Documentation in the medical record of the attempt by the physician, physician assistant, or psychiatric advanced registered nurse practitioner to obtain informed consent and the reasons why antipsychotic medication is being administered over the person's objection or lack of consent.

Sec. 4. RCW 71.05.217 and 2008 c 156 s 3 are each amended to read as follows:

Insofar as danger to the individual or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

(1) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

(2) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

(3) To have access to individual storage space for his or her private use;

(4) To have visitors at reasonable times;

(5) To have reasonable access to a telephone, both to make and receive confidential calls;

(6) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(7) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.05.320((~~(3)~~)) (4) or the performance of electroconvulsant therapy or surgery, except emergency lifesaving surgery, unless ordered by a court of competent jurisdiction pursuant to the following standards and procedures:

(a) The administration of antipsychotic medication or electroconvulsant therapy shall not be ordered unless the petitioning party proves by clear, cogent, and convincing evidence that there exists a compelling state interest that justifies overriding the patient's lack of consent to the administration of antipsychotic medications or electroconvulsant therapy, that the proposed treatment is necessary and effective, and that medically acceptable alternative forms of treatment are not available, have not been successful, or are not likely to be effective.

(b) The court shall make specific findings of fact concerning: (i) The existence of one or more compelling state interests; (ii) the necessity and effectiveness of the treatment; and (iii) the person's desires regarding the proposed treatment. If the patient is unable to make a rational and informed decision about consenting to or refusing the proposed treatment, the court shall make a substituted judgment for the patient as if he or she were competent to make such a determination.

(c) The person shall be present at any hearing on a request to administer antipsychotic medication or electroconvulsant therapy filed pursuant to this subsection. The person has the right: (i) To be represented by an attorney; (ii) to present evidence; (iii) to cross-examine witnesses; (iv) to have the rules of evidence enforced; (v) to remain silent; (vi) to view and copy all petitions and reports in the court file; and (vii) to be given reasonable notice and an opportunity to prepare for the hearing. The court may appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician to examine and testify on behalf of such person. The court shall appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician designated by such person or the person's counsel to testify on behalf of the person in cases where an order for electroconvulsant therapy is sought.

(d) An order for the administration of antipsychotic medications entered following a hearing conducted pursuant to this section shall be effective for the period of the current involuntary treatment order, and any interim period during

which the person is awaiting trial or hearing on a new petition for involuntary treatment or involuntary medication.

(e) Any person detained pursuant to RCW 71.05.320(((~~(3)~~))) (4), who subsequently refuses antipsychotic medication, shall be entitled to the procedures set forth in this subsection.

(f) Antipsychotic medication may be administered to a nonconsenting person detained or committed pursuant to this chapter without a court order pursuant to RCW 71.05.215(2) or under the following circumstances:

(i) A person presents an imminent likelihood of serious harm;

(ii) Medically acceptable alternatives to administration of antipsychotic medications are not available, have not been successful, or are not likely to be effective; and

(iii) In the opinion of the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for treatment of the person, or his or her designee, the person's condition constitutes an emergency requiring the treatment be instituted before a judicial hearing as authorized pursuant to this section can be held.

If antipsychotic medications are administered over a person's lack of consent pursuant to this subsection, a petition for an order authorizing the administration of antipsychotic medications shall be filed on the next judicial day. The hearing shall be held within two judicial days. If deemed necessary by the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for the treatment of the person, administration of antipsychotic medications may continue until the hearing is held;

(8) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue;

(9) Not to have psychosurgery performed on him or her under any circumstances.

Sec. 5. RCW 71.05.230 and 2015 c 250 s 6 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 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 results in a likelihood of serious harm, results in the person being gravely disabled, or results in the person being in need of assisted outpatient mental health treatment, and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The agency or facility providing intensive treatment or which proposes to supervise the less restrictive alternative is certified to provide such treatment by the department; and

(4) The professional staff of the agency or facility or the designated mental health professional has filed a petition with the court for a fourteen day involuntary detention or a ninety day less restrictive alternative. The petition must be signed either by:

(a) Two physicians;

(b) One physician and a mental health professional;

(c) ((~~Two psychiatric advanced registered nurse practitioners;~~)) One physician assistant and a mental health professional; or

(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, 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 RCW 71.05.585; 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 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. 6. RCW 71.05.290 and 2015 c 250 s 10 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 commitment and shall be supported by affidavits based on an examination of the patient and signed by:

(a) Two ((~~examining~~)) physicians;

(b) One ((~~examining~~)) physician and ((~~examining~~)) a mental health professional;

(c) ((~~Two psychiatric advanced registered nurse practitioners;~~)) One physician assistant and a mental health professional; or

(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 RCW 71.05.585.

(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. 7. RCW 71.05.300 and 2014 c 225 s 84 are each amended to read as follows:

(1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall notify the designated mental health professional. The designated mental health professional shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, the prosecuting attorney, and the behavioral health organization administrator, and provide a copy of the petition to such persons as soon as possible. The behavioral health organization administrator or designee may review the petition and may appear and testify at the full hearing on the petition.

(2) At the time set for appearance the detained person shall be brought before the court, unless such appearance has been waived and the court shall advise him or her of his or her right to be represented by an attorney, his or her right to a jury trial, and his or her loss of firearm rights if involuntarily committed. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, physician assistant, psychiatric advanced registered nurse practitioner, psychologist, or psychiatrist, designated by the detained person to examine and testify on behalf of the detained person.

(3) The court may, if requested, also appoint a professional person as defined in RCW 71.05.020 to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a person with a developmental disability who has been determined to be incompetent pursuant to RCW 10.77.086(4), then the appointed professional person under this section shall be a developmental disabilities professional.

(4) The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310.

Sec. 8. RCW 71.05.360 and 2009 c 217 s 5 are each amended to read as follows:

(1)(a) Every person involuntarily detained or committed under the provisions of this chapter shall be entitled to all the rights set forth in this chapter, which shall be prominently posted in the facility, and shall retain all rights not denied him or her under this chapter except as chapter 9.41 RCW may limit the right of a person to purchase or possess a firearm or to qualify for a concealed pistol license.

(b) No person shall be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder, under this chapter or any prior laws of this state dealing with mental illness. Competency shall not be determined or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

(c) Any person who leaves a public or private agency following evaluation or treatment for mental disorder shall be given a written statement setting forth the substance of this section.

(2) Each person involuntarily detained or committed pursuant to this chapter shall have the right to adequate care and individualized treatment.

(3) The provisions of this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(4) Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of an available physician, <u>physician assistant,</u> psychiatric advanced registered nurse practitioner, or other professional person qualified to provide such services.

(5) Whenever any person is detained for evaluation and treatment pursuant to this chapter, both the person and, if possible, a responsible member of his or her immediate family, personal representative, guardian, or conservator, if any, shall be advised as soon as possible in writing or orally, by the officer or person taking him or her into custody or by personnel of the evaluation and treatment facility where the person is detained that unless the person is released or voluntarily admits himself or herself for treatment within seventy-two hours of the initial detention:

(a) A judicial hearing in a superior court, either by a judge or court commissioner thereof, shall be held not more than seventy-two hours after the initial detention to determine whether there is probable cause to detain the person after the seventy-two hours have expired for up to an additional fourteen days without further automatic hearing for the reason that the person is a person whose mental disorder presents a likelihood of serious harm or that the person is gravely disabled;

(b) The person has a right to communicate immediately with an attorney; has a right to have an attorney appointed to represent him or her before and at the probable cause hearing if he or she is indigent; and has the right to be told the name and address of the attorney that the mental health professional has designated pursuant to this chapter;

(c) The person has the right to remain silent and that any statement he or she makes may be used against him or her;

(d) The person has the right to present evidence and to cross-examine witnesses who testify against him or her at the probable cause hearing; and

(e) The person has the right to refuse psychiatric medications, including antipsychotic medication beginning twenty-four hours prior to the probable cause hearing.

(6) When proceedings are initiated under RCW 71.05.153, no later than twelve hours after such person is admitted to the evaluation and treatment facility the personnel of the evaluation and treatment facility or the designated mental health professional shall serve on such person a copy of the petition for initial detention and the name, business address, and phone number of the designated attorney and shall forthwith commence service of a copy of the petition for initial detention on the designated attorney.

(7) The judicial hearing described in subsection (5) of this section is hereby authorized, and shall be held according to the provisions of subsection (5) of this section and rules promulgated by the supreme court.

(8) At the probable cause hearing the detained person shall have the following rights in addition to the rights previously specified:

(a) To present evidence on his or her behalf;

(b) To cross-examine witnesses who testify against him or her;

(c) To be proceeded against by the rules of evidence;

(d) To remain silent;

(e) To view and copy all petitions and reports in the court file.

(9) Privileges between patients and physicians, physician assistants, psychologists, or psychiatric advanced registered nurse practitioners are deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under this chapter, the privileges shall be waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

The record maker shall not be required to testify in order to introduce medical or psychological records of the detained person so long as the requirements of RCW 5.45.020 are met except that portions of the record which contain opinions as to the detained person's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.

(10) Insofar as danger to the person or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment,

or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights:

(a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

(b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

(c) To have access to individual storage space for his or her private use;

(d) To have visitors at reasonable times;

(e) To have reasonable access to a telephone, both to make and receive confidential calls, consistent with an effective treatment program;

(f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(g) To discuss treatment plans and decisions with professional persons;

(h) Not to consent to the administration of antipsychotic medications and not to thereafter be administered antipsychotic medications unless ordered by a court under RCW 71.05.217 or pursuant to an administrative hearing under RCW 71.05.215;

(i) Not to consent to the performance of electroconvulsant therapy or surgery, except emergency lifesaving surgery, unless ordered by a court under RCW 71.05.217;

(j) Not to have psychosurgery performed on him or her under any circumstances;

(k) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue.

(11) Every person involuntarily detained shall immediately be informed of his or her right to a hearing to review the legality of his or her detention and of his or her right to counsel, by the professional person in charge of the facility providing evaluation and treatment, or his or her designee, and, when appropriate, by the court. If the person so elects, the court shall immediately appoint an attorney to assist him or her.

(12) A person challenging his or her detention or his or her attorney shall have the right to designate and have the court appoint a reasonably available independent physician, <u>physician assistant,</u> psychiatric advanced registered nurse practitioner, or licensed mental health professional to examine the person detained, the results of which examination may be used in the proceeding. The person shall, if he or she is financially able, bear the cost of such expert examination, otherwise such expert examination shall be at public expense.

(13) Nothing contained in this chapter shall prohibit the patient from petitioning by writ of habeas corpus for release.

(14) Nothing in this chapter shall prohibit a person committed on or prior to January 1, 1974, from exercising a right available to him or her at or prior to January 1, 1974, for obtaining release from confinement.

(15) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or an active condition of supervision by the department of corrections.

Sec. 9. RCW 71.05.660 and 2013 c 200 s 21 are each amended to read as follows:

Nothing in this chapter or chapter 70.02, 70.96A, 71.34, or 70.96B RCW shall be construed to interfere with communications between physicians, physician assistants, psychiatric advanced registered nurse practitioners, or psychologists and patients and attorneys and clients.

Sec. 10. RCW 71.06.040 and 2009 c 217 s 10 are each amended to read as follows:

At a preliminary hearing upon the charge of sexual psychopathy, the court may require the testimony of two duly licensed physicians, physician assistants, or psychiatric advanced registered nurse practitioners who have examined the defendant. If the court finds that there are reasonable grounds to believe the defendant is a sexual psychopath, the court shall order said defendant confined at the nearest state hospital for observation as to the existence of sexual psychopathy. Such observation shall be for a period of not to exceed ninety days. The defendant shall be detained in the county jail or other county facilities pending execution of such observation order by the department.

Sec. 11. RCW 71.12.540 and 2009 c 217 s 11 are each amended to read as follows:

The authorities of each establishment as defined in this chapter shall place on file in the office of the establishment the recommendations made by the department of health as a result of such visits, for the purpose of consultation by such authorities, and for reference by the department representatives upon their visits. Every such establishment shall keep records of every person admitted thereto as follows and shall furnish to the department, when required, the following data: Name, age, sex, marital status, date of admission, voluntary or other commitment, name of physician, physician assistant, or psychiatric advanced registered nurse practitioner, diagnosis, and date of discharge.

Sec. 12. RCW 71.24.025 and 2014 c 225 s 10 are each reenacted and amended to read as follows:

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Available resources" means funds appropriated for the purpose of providing community mental health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(3) "Behavioral health organization" means any county authority or group of county authorities or other entity recognized by the secretary in contract in a defined region.

(4) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and chemical dependency treatment services as described in chapter 70.96A RCW.

(5) "Child" means a person under the age of eighteen years.

(6) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended.

(7) "Clubhouse" means a community-based program that provides rehabilitation services and is certified by the department of social and health services.

(8) "Community mental health program" means all mental health services, activities, or programs using available resources.

(9) "Community mental health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders as defined under RCW 71.05.020 and receive funding from public sources.

(10) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health organizations.

(11) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(12) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this

subsection which have entered into an agreement to provide a community mental health program.

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

(14) "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.

(15) "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 subsection (16) of this section.

(16) "Evidence-based" means a program or practice that 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. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(17) "Licensed service provider" means an entity licensed according to this chapter or chapter 71.05 or 70.96A RCW or an entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department, or tribal attestation that meets state minimum standards, or persons licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(18) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(19) "Mental health services" means all services provided by behavioral health organizations and other services provided by the state for persons who are mentally ill.

(20) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (6), (28), and (29) of this section.

(21) "Recovery" means the process in which people are able to live, work, learn, and participate fully in their communities.

(22) "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.

(23) "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 subsection (16) of this section but does not meet the full criteria for evidence-based.

(24) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(25) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(26) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined solely by a behavioral health organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated mental health professionals, evaluation and treatment facilities, and others as determined by the behavioral health organization.

(27) "Secretary" means the secretary of social and health services.

(28) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(29) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health organization to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(30) "State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement this chapter for: (a) Delivery of mental health services; (b) licensed service providers for the provision of mental health services; (c) residential services; and (d) community support services and resource management services.

(31) "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 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.

(32) "Tribal authority," for the purposes of this section and RCW 71.24.300 only, means: The federally recognized Indian tribes and the major Indian organizations recognized by the secretary insofar as these organizations do not have a financial relationship with any behavioral health organization that would present a conflict of interest.

Sec. 13. RCW 71.32.110 and 2003 c 283 s 11 are each amended to read as follows:

(1) For the purposes of this chapter, a principal, agent, professional person, or health care provider may seek a determination whether the principal is incapacitated or has regained capacity.

(2)(a) For the purposes of this chapter, no adult may be declared an incapacitated person except by:

(i) A court, if the request is made by the principal or the principal's agent;

(ii) One mental health professional and one health care provider; or

(iii) Two health care providers.

(b) One of the persons making the determination under (a)(ii) or (iii) of this subsection must be a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, or a psychiatric advanced registered nurse practitioner.

(3) When a professional person or health care provider requests a capacity determination, he or she shall promptly inform the principal that:

(a) A request for capacity determination has been made; and

(b) The principal may request that the determination be made by a court.

(4) At least one mental health professional or health care provider must personally examine the principal prior to making a capacity determination.

(5)(a) When a court makes a determination whether a principal has capacity, the court shall, at a minimum, be informed by the testimony of one mental health professional familiar with the principal and shall, except for good cause, give the principal an opportunity to appear in court prior to the court making its determination.

(b) To the extent that local court rules permit, any party or witness may testify telephonically.

(6) When a court has made a determination regarding a principal's capacity and there is a subsequent change in the principal's condition, subsequent determinations whether the principal is incapacitated may be made in accordance with any of the provisions of subsection (2) of this section.

Sec. 14. RCW 71.32.140 and 2009 c 217 s 12 are each amended to read as follows:

(1) A principal who:

(a) Chose not to be able to revoke his or her directive during any period of incapacity;

(b) Consented to voluntary admission to inpatient mental health treatment, or authorized an agent to consent on the principal's behalf; and

(c) At the time of admission to inpatient treatment, refuses to be admitted, may only be admitted into inpatient mental health treatment under subsection (2) of this section.

(2) A principal may only be admitted to inpatient mental health treatment under his or her directive if, prior to admission, a member of the treating facility's professional staff who is a physician, physician assistant, or psychiatric advanced registered nurse practitioner:

(a) Evaluates the principal's mental condition, including a review of reasonably available psychiatric and psychological history, diagnosis, and treatment needs, and determines, in conjunction with another health care provider or mental health professional, that the principal is incapacitated;

(b) Obtains the informed consent of the agent, if any, designated in the directive;

(c) Makes a written determination that the principal needs an inpatient evaluation or is in need of inpatient treatment and that the evaluation or treatment cannot be accomplished in a less restrictive setting; and

(d) Documents in the principal's medical record a summary of the physician's, physician assistant's, or psychiatric advanced registered nurse practitioner's findings and recommendations for treatment or evaluation.

(3) In the event the admitting physician is not a psychiatrist, the admitting physician assistant is not supervised by a psychiatrist, or the advanced registered nurse practitioner is not a psychiatric advanced registered nurse practitioner, the principal shall receive a complete psychological assessment by a mental health professional within twenty-four hours of admission to determine the continued need for inpatient evaluation or treatment.

(4)(a) If it is determined that the principal has capacity, then the principal may only be admitted to, or remain in, inpatient treatment if he or she consents at the time or is detained under the involuntary treatment provisions of chapter 70.96A, 71.05, or 71.34 RCW.

(b) If a principal who is determined by two health care providers or one mental health professional and one health care provider to be incapacitated continues to refuse inpatient treatment, the principal may immediately seek injunctive relief for release from the facility.

(5) If, at the end of the period of time that the principal or the principal's agent, if any, has consented to voluntary inpatient treatment, but no more than fourteen days after admission, the principal has not regained capacity or has regained capacity but refuses to consent to remain for additional treatment, the principal must be released during reasonable daylight hours, unless detained under chapter 70.96A, 71.05, or 71.34 RCW.

(6)(a) Except as provided in (b) of this subsection, any principal who is voluntarily admitted to inpatient mental health treatment under this chapter shall have all the rights provided to individuals who are voluntarily admitted to inpatient treatment under chapter 71.05, 71.34, or 72.23 RCW.

(b) Notwithstanding RCW 71.05.050 regarding consent to inpatient treatment for a specified length of time, the choices an incapacitated principal expressed in his or her directive shall control, provided, however, that a principal who takes action demonstrating a desire to be discharged, in addition to making statements requesting to be discharged, shall be discharged, and no principal shall be restrained in any way in order to prevent his or her discharge. Nothing in this subsection shall be construed to prevent detention and evaluation for civil commitment under chapter 71.05 RCW.

(7) Consent to inpatient admission in a directive is effective only while the professional person, health care provider, and health care facility are in substantial compliance with the material provisions of the directive related to inpatient treatment.

Sec. 15. RCW 71.32.250 and 2009 c 217 s 13 are each amended to read as follows:

(1) If a principal who is a resident of a long-term care facility is admitted to inpatient mental health treatment pursuant to his or her directive, the principal shall be allowed to be readmitted to the same long-term care facility as if his or her inpatient admission had been for a physical condition on the same basis that the principal would be readmitted under state or federal statute or rule when:

(a) The treating facility's professional staff determine that inpatient mental health treatment is no longer medically necessary for the resident. The determination shall be made in writing by a psychiatrist, physician assistant working with a supervising psychiatrist, or a psychiatric advanced registered nurse practitioner, or ((~~a mental health professional and either (i) a physician or (ii) psychiatric advanced registered nurse practitioner~~)) (i) one physician and a mental health professional; (ii) one physician assistant and a mental health professional; or (iii) one psychiatric advanced registered nurse practitioner and a mental health professional; or

(b) The person's consent to admission in his or her directive has expired.

(2)(a) If the long-term care facility does not have a bed available at the time of discharge, the treating facility may discharge the resident, in consultation with the resident and agent if any, and in accordance with a medically appropriate discharge plan, to another long-term care facility.

(b) This section shall apply to inpatient mental health treatment admission of long-term care facility residents, regardless of whether the admission is directly from a facility, hospital emergency room, or other location.

(c) This section does not restrict the right of the resident to an earlier release from the inpatient treatment facility. This section does not restrict the right of a long-term care facility to initiate transfer or discharge of a resident who is readmitted pursuant to this section, provided that the facility has complied with the laws governing the transfer or discharge of a resident.

(3) The joint legislative audit and review committee shall conduct an evaluation of the operation and impact of this section. The committee shall report its findings to the appropriate committees of the legislature by December 1, 2004.

Sec. 16. RCW 71.32.260 and 2009 c 217 s 14 are each amended to read as follows:

The directive shall be in substantially the following form:

Mental Health Advance Directive

NOTICE TO PERSONS
CREATING A MENTAL HEALTH ADVANCE DIRECTIVE

This is an important legal document. It creates an advance directive for mental health treatment. Before signing this document you should know these important facts:

(1) This document is called an advance directive and allows you to make decisions in advance about your mental health treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.

YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM.
IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.

If you choose to complete and sign this document, you may still decide to leave some items blank.

(2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your agent that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with your wishes made known by you. If your agent does not know what your wishes are, he or she has a duty to act in your best interest. Your agent has the right to withdraw from the appointment at any time.

(3) The instructions you include with this advance directive and the authority you give your agent to act will only become effective under the conditions you select in this document. You may choose to limit this directive and your agent's authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior that you specify. You may also make this directive effective immediately. No matter when you choose to make this directive effective, your treatment providers must still seek your informed consent at all times that you have capacity to give informed consent.

(4) You have the right to revoke this document in writing at any time you have capacity.

YOU MAY NOT REVOKE THIS DIRECTIVE WHEN YOU HAVE BEEN FOUND TO BE INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT YOU WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.

(5) This directive will stay in effect until you revoke it unless you specify an expiration date. If you specify an expiration date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to make treatment decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke the directive.

(6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a different process.

(7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

(8) You should be aware that there are some circumstances where your provider may not have to follow your directive.

(9) You should discuss any treatment decisions in your directive with your provider.

(10) You may ask the court to rule on the validity of your directive.

PART I.
STATEMENT OF INTENT TO CREATE A MENTAL HEALTH ADVANCE DIRECTIVE

I, ... being a person with capacity, willfully and voluntarily execute this mental health advance directive so that my choices regarding my mental health care will be carried out in circumstances when I am unable to express my instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental health decisions for me, I intend this document to take precedence over all other means of ascertaining my intent.

The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all completed sections be followed. If I have not expressed a choice, my agent should make the decision that he or she determines is in my best interest. I intend this directive to take precedence over any other directives I have previously executed, to the extent that they are inconsistent with this document, or unless I expressly state otherwise in either document.

I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this directive while incapacitated.

I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in this directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider, professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect, financial exploitation, or abandonment to carry out my directive.

I understand that there are some circumstances where my provider may not have to follow my directive.

PART II.
WHEN THIS DIRECTIVE IS EFFECTIVE

YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I intend that this directive become effective (*YOU MUST CHOOSE ONLY ONE*):

. . . . . Immediately upon my signing of this directive.

. . . . . If I become incapacitated.

. . . . . When the following circumstances, symptoms, or behaviors occur:

. . . . . .

. . . . . .

PART III.
DURATION OF THIS DIRECTIVE

YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I want this directive to (*YOU MUST CHOOSE ONLY ONE*):

. . . . . Remain valid and in effect for an indefinite period of time.

. . . . . Automatically expire . . . . . years from the date it was created.

PART IV.
WHEN I MAY REVOKE THIS DIRECTIVE

YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.

I intend that I be able to revoke this directive (*YOU MUST CHOOSE ONLY ONE*):

. . . . . Only when I have capacity.

I understand that choosing this option means I may only revoke this directive if I have capacity. I further understand that if I choose this option and become incapacitated while this directive is in effect, I may receive treatment that I specify in this directive, even if I object at the time.

. . . . . Even if I am incapacitated.

I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further understand that if I choose this option and revoke this directive while I am incapacitated I may not receive treatment that I specify in this directive, even if I want the treatment.

PART V.
PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT, FACILITIES, AND PHYSICIANS OR PSYCHIATRIC ADVANCED REGISTERED NURSE PRACTITIONERS

A. Preferences and Instructions About Physician(s), Physician Assistant(s), or Psychiatric Advanced Registered Nurse Practitioner(s) to be Involved in My Treatment

I would like the physician(s), physician assistant(s), or psychiatric advanced registered nurse practitioner(s) named below to be involved in my treatment decisions:

Dr., PA-C, or PARNP . . . . . Contact information:. . . . . .

Dr., PA-C, or PARNP . . . . . Contact information:. . . . . .

I do not wish to be treated by Dr. or PARNP . . . . . .

B. Preferences and Instructions About Other Providers

I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would like the following treatment provider(s) to be contacted when this directive is effective:

Name . . . . . Profession . . . . . Contact information. . . . . .

Name . . . . . Profession . . . . . Contact information. . . . . .

C. Preferences and Instructions About Medications for Psychiatric Treatment (*initial and complete all that apply*)

. . . . . I consent, and authorize my agent (if appointed) to consent, to the following
medications:. . . . . .

. . . . . I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the following medications: . . . . . .

. . . . . I am willing to take the medications excluded above if my only reason for excluding them is the side effects which include. . . . . .
and these side effects can be eliminated by dosage adjustment or other means

. . . . . I am willing to try any other medication the hospital doctor, physician assistant, or psychiatric advanced registered nurse practitioner recommends

. . . . . I am willing to try any other medications my outpatient doctor, physician assistant, or psychiatric advanced registered nurse practitioner recommends

. . . . . I do not want to try any other medications.

Medication Allergies

I have allergies to, or severe side effects from, the following:. . . . . .
. . . . . .

Other Medication Preferences or Instructions

. . . . . I have the following other preferences or instructions about medications
. . . . . .

D. Preferences and Instructions About Hospitalization and Alternatives (*initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on*)

. . . . . In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical conditions that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities designed as alternatives to psychiatric hospitalizations.

. . . . . I would also like the interventions below to be tried before hospitalization is considered:

. . . . . Calling someone or having someone call me when needed.

Name:. . . . . Telephone:. . . . . .

. . . . . Staying overnight with someone

Name:. . . . . Telephone:. . . . . .

. . . . . Having a mental health service provider come to see me

. . . . . Going to a crisis triage center or emergency room

. . . . . Staying overnight at a crisis respite (temporary) bed

. . . . . Seeing a service provider for help with psychiatric medications

. . . . . Other, specify:

Authority to Consent to Inpatient Treatment

I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment for . . . . . days (*not to exceed 14 days*)

(Sign one):

. . . . . If deemed appropriate by my agent (if appointed) and treating physician, physician assistant, or psychiatric advanced registered nurse practitioner

. . . . . .
(Signature)

or

. . . . . Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for hospitalization) . . . . . .

. . . . . .
(Signature)

. . . . . I do **not** consent, or authorize my agent (if appointed) to consent, to inpatient treatment

. . . . . .
(Signature)

Hospital Preferences and Instructions

If hospitalization is required, I prefer the following hospitals:. . . . . .

I do not consent to be admitted to the following hospitals:. . . . . .

E. Preferences and Instructions About Preemergency

I would like the interventions below to be tried before use of seclusion or restraint is considered
(*initial all that apply*):

. . . . . "Talk me down" one-on-one

. . . . . More medication

. . . . . Time out/privacy

. . . . . Show of authority/force

. . . . . Shift my attention to something else

. . . . . Set firm limits on my behavior

. . . . . Help me to discuss/vent feelings

. . . . . Decrease stimulation

. . . . . Offer to have neutral person settle dispute

. . . . . Other, specify

F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications

If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of medication, I prefer these interventions in the order I have chosen (*choose "1" for first choice, "2" for second choice, and so on*):

. . . . . Seclusion

. . . . . Seclusion and physical restraint (combined)

. . . . . Medication by injection

. . . . . Medication in pill or liquid form

In the event that my attending physician, physician assistant, or psychiatric advanced registered nurse practitioner decides to use medication in response to an emergency situation after due consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of medication to reflect any preferences and instructions I have expressed in Part III C of this form. The preferences and instructions I express in this section regarding medication in emergency situations do not constitute consent to use of the medication for nonemergency treatment.

G. Preferences and Instructions About Electroconvulsive Therapy (ECT or Shock Therapy)

My wishes regarding electroconvulsive therapy are (*sign one*):

. . . . . I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

. . . . . .
(Signature)

. . . . . I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

. . . . . .
(Signature)

. . . . . I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy, but only under the following conditions:. . . . . .
. . . . . .

. . . . . .
(Signature)

H. Preferences and Instructions About Who is Permitted to Visit

If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:

Name:. . . . . .

Name:. . . . . .

Name:. . . . . .

I understand that persons not listed above may be permitted to visit me.

I. Additional Instructions About My Mental Health Care

Other instructions about my mental health care:. . . . . .

. . . . . .

In case of emergency, please contact:

Name:. . . . . Address:. . . . . .

Work telephone:. . . . . Home telephone:. . . . . .

Physician, Physician Assistant, or Psychiatric Advanced Registered Nurse Practitioner:. . . . . Address:. . . . . .

Telephone:. . . . . .

The following may help me to avoid a hospitalization:. . . . . .

. . . . . .

I generally react to being hospitalized as follows:. . . . . .

. . . . . .

Staff of the hospital or crisis unit can help me by doing the following:. . . . . .

. . . . . .

. . . . . .

J. Refusal of Treatment

I do not consent to any mental health treatment.

. . . . . .

(Signature)

PART VI.
DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY AGENT)

(*Fill out this part only if you wish to appoint an agent or nominate a guardian.*)

I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those decisions should be made in accordance with my expressed wishes as set forth in this document. If I have not expressed a choice in this document **and my agent does not otherwise know my wishes**, I authorize my agent to make the decision that my agent determines is in my best interest. This agency shall not be affected by my incapacity. Unless I state otherwise in this durable power of attorney, I may revoke it unless prohibited by other state law.

A. Designation of an Agent

I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this document and request that this person be notified immediately when this directive becomes effective:

Name:. . . . . Address:. . . . . .

Work telephone:. . . . . Home telephone:. . . . . .

Relationship:. . . . . .

B. Designation of Alternate Agent

If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified immediately when this directive becomes effective or when my original agent is no longer my agent:

Name:. . . . . Address:. . . . . .

Work telephone:. . . . . Home telephone:. . . . . .

Relationship:. . . . . .

C. When My Spouse is My Agent (*initial if desired*)

. . . . . If my spouse is my agent, that person shall remain my agent even if we become legally separated or our marriage is dissolved, unless there is a court order to the contrary or I have remarried.

D. Limitations on My Agent's Authority

I do not grant my agent the authority to consent on my behalf to the following:

. . . . . .

. . . . . .

E. Limitations on My Ability to Revoke this Durable Power of Attorney

I choose to limit my ability to revoke this durable power of attorney as follows:

. . . . . .

. . . . . .

F. Preference as to Court-Appointed Guardian

In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I **nominate** the following person **as my guardian**:

Name:. . . . . Address:. . . . . .

Work telephone:. . . . . Home telephone:. . . . . .

Relationship:. . . . . .

The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as authorized by law.

. . . . . .

(Signature required if nomination is made)

PART VII.
OTHER DOCUMENTS

(*Initial all that apply*)

I have executed the following documents that include the power to make decisions regarding health care services for myself:

. . . . . Health care power of attorney (chapter 11.94 RCW)

. . . . . "Living will" (Health care directive; chapter 70.122 RCW)

. . . . . I have appointed more than one agent. I understand that the most recently appointed agent controls except as stated below:

. . . . . .

PART VIII.
NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS

(*Fill out this part only if you wish to provide nontreatment instructions.*)

I understand the preferences and instructions in this part are **NOT** the responsibility of my treatment provider and that no treatment provider is required to act on them.

A. Who Should Be Notified

I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

Name:. . . . . Address:. . . . . .

Day telephone:. . . . . Evening telephone:. . . . . .

Name:. . . . . Address:. . . . . .

Day telephone:. . . . . Evening telephone:. . . . . .

B. Preferences or Instructions About Personal Affairs

I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I am admitted to a mental health treatment facility:

. . . . . .

. . . . . .

C. Additional Preferences and Instructions:

. . . . . .

. . . . . .

. . . . . .

. . . . . .

PART IX.
SIGNATURE

By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my informed consent to the treatments and/or admission to which I have consented or authorized my agent to consent in this directive. I intend that my consent in this directive be construed as being consistent with the elements of informed consent under chapter 7.70 RCW.

Signature:. . . . . Date:. . . . . .

Printed Name:. . . . . .

This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does not appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:

(A) A person designated to make medical decisions on the principal's behalf;

(B) A health care provider or professional person directly involved with the provision of care to the principal at the time the directive is executed;

(C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care facility in which the principal is a patient or resident;

(D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating relationship as defined in RCW 26.50.010;

(E) An incapacitated person;

(F) A person who would benefit financially if the principal undergoes mental health treatment; or

(G) A minor.

Witness 1: Signature:. . . . . Date:. . . . . .

Printed Name:. . . . . .

Telephone:. . . . . Address:. . . . . .

Witness 2: Signature:. . . . . Date:. . . . . .

Printed Name:. . . . . .

Telephone:. . . . . Address:. . . . . .

PART X.
RECORD OF DIRECTIVE

I have given a copy of this directive to the following persons:. . . . . .

. . . . . .

DO NOT FILL OUT PART XI UNLESS YOU INTEND TO REVOKE THIS DIRECTIVE IN PART OR IN WHOLE

PART XI.
REVOCATION OF THIS DIRECTIVE

(*Initial any that apply*):

. . . . . I am revoking the following part(s) of this directive (specify):. . . . . .

. . . . . .

. . . . . I am revoking all of this directive.

By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by any revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked provision(s).

Signature:. . . . . Date:. . . . . .

Printed Name:. . . . . .

DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS DIRECTIVE IN PART OR IN WHOLE

Sec. 17. RCW 71.34.020 and 2011 c 89 s 16 are each amended to read as follows:

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

(1) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(2) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(3) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

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

(5) "Designated mental health professional" means a mental health professional designated by one or more counties to perform the functions of a designated mental health professional described in this chapter.

(6) "Evaluation and treatment facility" means a public or private facility or unit that is certified by the department to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the department or federal agency does not require certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(7) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(8) "Gravely disabled minor" means a minor who, as a result of a mental disorder, is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(9) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, or residential treatment facility certified by the department as an evaluation and treatment facility for minors.

(10) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

(11) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others.

(12) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder; or (b) prevent the worsening of mental conditions that endanger life or cause suffering and pain, or result in illness or infirmity or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(13) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(14) "Mental health professional" means a psychiatrist, <u>physician assistant working with a supervising psychiatrist,</u> psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under this chapter.

(15) "Minor" means any person under the age of eighteen years.

(16) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed services providers as identified by RCW 71.24.025.

(17) "Parent" means:

(a) A biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under a joint custody agreement; or

(b) A person or agency judicially appointed as legal guardian or custodian of the child.

(18) "Professional person in charge" or "professional person" means a physician or other mental health professional empowered by an evaluation and

treatment facility with authority to make admission and discharge decisions on behalf of that facility.

(19) "Psychiatric nurse" means a registered nurse who has a bachelor's degree from an accredited college or university, and who has had, in addition, at least two years' experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional. "Psychiatric nurse" shall also mean any other registered nurse who has three years of such experience.

(20) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(21) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(22) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(23) "Secretary" means the secretary of the department or secretary's designee.

(24) "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.

(25) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(26) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW.

Sec. 18. RCW 71.34.355 and 2009 c 217 s 15 are each amended to read as follows:

Absent a risk to self or others, minors treated under this chapter have the following rights, which shall be prominently posted in the evaluation and treatment facility:

(1) To wear their own clothes and to keep and use personal possessions;

(2) To keep and be allowed to spend a reasonable sum of their own money for canteen expenses and small purchases;

(3) To have individual storage space for private use;

(4) To have visitors at reasonable times;

(5) To have reasonable access to a telephone, both to make and receive confidential calls;

(6) To have ready access to letter-writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(7) To discuss treatment plans and decisions with mental health professionals;

(8) To have the right to adequate care and individualized treatment;

(9) Not to consent to the performance of electro-convulsive treatment or surgery, except emergency lifesaving surgery, upon him or her, and not to have electro-convulsive treatment or nonemergency surgery in such circumstance unless ordered by a court pursuant to a judicial hearing in which the minor is

present and represented by counsel, and the court shall appoint a psychiatrist, physician assistant, psychologist, psychiatric advanced registered nurse practitioner, or physician designated by the minor or the minor's counsel to testify on behalf of the minor. The minor's parent may exercise this right on the minor's behalf, and must be informed of any impending treatment;

(10) Not to have psychosurgery performed on him or her under any circumstances.

Sec. 19. RCW 71.34.720 and 2009 c 217 s 16 are each amended to read as follows:

(1) Each minor approved by the facility for inpatient admission shall be examined and evaluated by a children's mental health specialist as to the child's mental condition and by a physician, physician assistant, or psychiatric advanced registered nurse practitioner as to the child's physical condition within twenty-four hours of admission. Reasonable measures shall be taken to ensure medical treatment is provided for any condition requiring immediate medical attention.

(2) If, after examination and evaluation, the children's mental health specialist and the physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the minor would be better served by placement in a chemical dependency treatment facility, then the minor shall be referred to an approved treatment program defined under RCW 70.96A.020.

(3) The admitting facility shall take reasonable steps to notify immediately the minor's parent of the admission.

(4) During the initial seventy-two hour treatment period, the minor has a right to associate or receive communications from parents or others unless the professional person in charge determines that such communication would be seriously detrimental to the minor's condition or treatment and so indicates in the minor's clinical record, and notifies the minor's parents of this determination. In no event may the minor be denied the opportunity to consult an attorney.

(5) If the evaluation and treatment facility admits the minor, it may detain the minor for evaluation and treatment for a period not to exceed seventy-two hours from the time of provisional acceptance. The computation of such seventy-two hour period shall exclude Saturdays, Sundays, and holidays. This initial treatment period shall not exceed seventy-two hours except when an application for voluntary inpatient treatment is received or a petition for fourteen-day commitment is filed.

(6) Within twelve hours of the admission, the facility shall advise the minor of his or her rights as set forth in this chapter.

Sec. 20. RCW 71.34.730 and 2009 c 293 s 6 and 2009 c 217 s 17 are each amended to read as follows:

(1) The professional person in charge of an evaluation and treatment facility where a minor has been admitted involuntarily for the initial seventy-two hour treatment period under this chapter may petition to have a minor committed to an evaluation and treatment facility for fourteen-day diagnosis, evaluation, and treatment.

If the professional person in charge of the treatment and evaluation facility does not petition to have the minor committed, the parent who has custody of the

minor may seek review of that decision in court. The parent shall file notice with the court and provide a copy of the treatment and evaluation facility's report.

(2) A petition for commitment of a minor under this section shall be filed with the superior court in the county where the minor is residing or being detained.

(a) A petition for a fourteen-day commitment shall be signed by: (i) Two physicians((,)); (ii) ((~~two psychiatric advanced registered nurse practitioners, (iii) a mental health professional and either a physician or a psychiatric advanced registered nurse practitioner, or (iv) a physician and a psychiatric advanced registered nurse practitioner~~)) one physician and a mental health professional; (iii) one physician assistant and a mental health professional; or (iv) one psychiatric advanced registered nurse practitioner and a mental health professional. The person signing the petition must have examined the minor, and the petition must contain the following:

(A) The name and address of the petitioner;

(B) The name of the minor alleged to meet the criteria for fourteen-day commitment;

(C) The name, telephone number, and address if known of every person believed by the petitioner to be legally responsible for the minor;

(D) A statement that the petitioner has examined the minor and finds that the minor's condition meets required criteria for fourteen-day commitment and the supporting facts therefor;

(E) A statement that the minor has been advised of the need for voluntary treatment but has been unwilling or unable to consent to necessary treatment;

(F) A statement that the minor has been advised of the loss of firearm rights if involuntarily committed;

(G) A statement recommending the appropriate facility or facilities to provide the necessary treatment; and

(H) A statement concerning whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(b) A copy of the petition shall be personally delivered to the minor by the petitioner or petitioner's designee. A copy of the petition shall be sent to the minor's attorney and the minor's parent.

Sec. 21. RCW 71.34.750 and 2009 c 217 s 18 are each amended to read as follows:

(1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

(a) The name and address of the petitioner or petitioners;

(b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;

(c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility responsible for the treatment of the minor;

(d) The date of the fourteen-day commitment order; and

(e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by: (a) Two examining physicians, one of whom shall be a child psychiatrist, or two psychiatric advanced registered nurse practitioners, one of whom shall be a child and adolescent or family psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by a child psychiatrist; (b) one children's mental health specialist and either an examining physician, physician assistant, or a psychiatric advanced registered nurse practitioner((,)); or (c) two among an examining physician, physician assistant, and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist a physician assistant supervised by a child psychiatrist, or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the minor's attorney and the minor's parent. A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment, the court must find by clear, cogent, and convincing evidence that the minor:

(a) Is suffering from a mental disorder;

(b) Presents a likelihood of serious harm or is gravely disabled; and

(c) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(7) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court shall order the minor committed for further inpatient treatment to the custody of the secretary or to a private treatment and evaluation facility if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

(8) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least five days prior to the expiration of the previous one hundred eighty-day commitment order.

Sec. 22. RCW 71.34.770 and 2009 c 217 s 19 are each amended to read as follows:

(1) The professional person in charge of the inpatient treatment facility may authorize release for the minor under such conditions as appropriate. Conditional release may be revoked pursuant to RCW 71.34.780 if leave conditions are not met or the minor's functioning substantially deteriorates.

(2) Minors may be discharged prior to expiration of the commitment period if the treating physician, physician assistant, psychiatric advanced registered nurse practitioner, or professional person in charge concludes that the minor no longer meets commitment criteria.

Sec. 23. RCW 18.71A.030 and 2013 c 203 s 6 are each amended to read as follows:

(1) A physician assistant may practice medicine in this state only with the approval of the delegation agreement by the commission and only to the extent permitted by the commission. A physician assistant who has received a license but who has not received commission approval of the delegation agreement under RCW 18.71A.040 may not practice. A physician assistant shall be subject to discipline under chapter 18.130 RCW.

(2) Physician assistants may provide services that they are competent to perform based on their education, training, and experience and that are consistent with their commission-approved delegation agreement. The supervising physician and the physician assistant shall determine which procedures may be performed and the degree of supervision under which the procedure is performed. Physician assistants may practice in any area of medicine or surgery as long as the practice is not beyond the supervising physician's own scope of expertise and practice.

Sec. 24. RCW 18.57A.030 and 2013 c 203 s 3 are each amended to read as follows:

(1) An osteopathic physician assistant as defined in this chapter may practice osteopathic medicine in this state only with the approval of the delegation agreement by the board and only to the extent permitted by the board. An osteopathic physician assistant who has received a license but who has not received board approval of the delegation agreement under RCW 18.57A.040 may not practice. An osteopathic physician assistant shall be subject to discipline by the board under the provisions of chapter 18.130 RCW.

(2) Osteopathic physician assistants may provide services that they are competent to perform based on their education, training, and experience and that are consistent with their board-approved delegation agreement. The supervising physician and the physician assistant shall determine which procedures may be performed and the degree of supervision under which the procedure is performed. Physician assistants may practice in any area of medicine or surgery so long as the practice is not beyond the supervising physician's own scope of expertise and practice.

Passed by the Senate March 7, 2016.
Passed by the House March 3, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 156

[Substitute Senate Bill 6536]

GROUP HEALTH BENEFIT PLANS, DENTAL PLANS, AND VISION PLANS--FILING AND REVIEW--UNIFORMITY

AN ACT Relating to the filing and rating of group health benefit plans other than small group plans, all stand-alone dental plans, and stand-alone vision plans by disability insurers, health care service contractors, and health maintenance organizations; amending RCW 48.43.733; creating a new section; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature to enhance competition among all health carriers and limited health care service contractors by having the office of the insurance commissioner establish regulatory uniformity for the rate and form filing process and the rate and form filing content and regulatory review standards for group health benefit plans other than small group health benefit plans, as well as all stand-alone dental plans and all stand-alone vision plans.

Sec. 2. RCW 48.43.733 and 2015 c 19 s 3 are each amended to read as follows:

(1) All rates and forms of group health benefit plans other than small group plans, and all stand-alone dental and all stand-alone vision plans offered by a health carrier or limited health care service contractor as defined in RCW 48.44.035 and modification of a contract form or rate must be filed before the contract form is offered for sale to the public and before the rate schedule is used.

(2) Filings of negotiated health benefit plans, stand-alone dental, and stand-alone vision contract forms for groups other than small groups, and applicable rate schedules, that are placed into effect at time of negotiation or that have a retroactive effective date are not required to be filed in accordance with subsection (1) of this section, but must be filed within thirty working days after the earlier of:

(a) The date group contract negotiations are completed; or

(b) The date renewal premiums are implemented.

(3) For purposes of this section, a negotiated contract form is a health benefit plan, stand-alone dental plan, or stand-alone vision plan where benefits, and other terms and conditions, including the applicable rate schedules are negotiated and agreed to by the carrier or limited health care service contractor and the policy or contract holder. The negotiated policy form and associated rate schedule must otherwise comply with state and federal laws governing the content and schedule of rates for the negotiated plans.

(4) Stand-alone dental and stand-alone vision plans offered by a disability insurer to out-of-state groups specified by RCW 48.21.010(2) may be negotiated, but may not be offered in this state before the commissioner finds that the stand-alone dental or stand-alone vision plan otherwise ((~~meet[s]~~)) meets the standards set forth in RCW 48.21.010(2) (a) and (b).

(5) The commissioner may, subject to a carrier's or limited health care service contractor's right to demand and receive a hearing under chapters 48.04 and 34.05 RCW, disapprove filings submitted under this section, as permitted under RCW 48.18.110, 48.44.020, and 48.46.060.

(6) The commissioner shall ((~~adopt~~)) amend existing rules to standardize the rate and form filing ((~~requirements~~)) process as well as regulatory review standards for the rates and forms of the plans submitted under this section. ((~~In developing rules to implement this section,~~)) The commissioner ((~~must use the already adopted standards in place for~~)) may amend the rules previously adopted under RCW 48.43.733 and shall amend any additional rating requirements established by existing rule, that are not applied to health care service contractors and health maintenance organizations.

(7) The requirements of this section apply to all group health benefit plans other than small group plans, all stand-alone dental plans, and all stand-alone vision plans issued or renewed on or after ((~~January 1, 2016~~)) the effective date of this 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 immediately.

Passed by the Senate March 7, 2016.
Passed by the House March 2, 2016.
Approved by the Governor March 31, 2016.
Filed in Office of Secretary of State April 1, 2016.

CHAPTER 157

[Third Substitute House Bill 1682]

HOMELESS STUDENTS--EDUCATIONAL OUTCOMES

AN ACT Relating to improving educational outcomes for homeless students through increased in-school guidance supports, housing stability, and identification services; amending RCW 28A.300.540 and 28A.320.145; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 43.185C RCW; adding new sections to chapter 28A.320 RCW; and creating new sections.

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that schools are places of academic as well as personal enrichment and that schools provide safety, stability, support, and relationships necessary to help students succeed. These resources are vitally necessary for tens of thousands of students in Washington with no permanent home who often struggle in school because they are worried about where their families are staying night after night.

(2) The legislature also recognizes the population of homeless students disproportionally includes students of color.

(3) The intent of the legislature is to start a competitive grant system for high-need school districts and to supplement federal McKinney-Vento Act dollars to ensure homeless students continue attending the same schools, maintain housing stability, and improve academic achievement.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose the office of the superintendent of public instruction shall create a competitive grant process to evaluate and award state-funded grants to school districts to increase identification of homeless students and the capacity of the

districts to provide support, which may include education liaisons, for homeless students. The process must complement any similar federal grant program or programs in order to minimize agency overhead and administrative costs for the superintendent of public instruction and school districts. School districts may access both federal and state funding to identify and support homeless students.

(2) Award criteria for the state grants must be based on the demonstrated need of the school district and may consider the number or overall percentage, or both, of homeless children and youths enrolled in preschool, elementary, and secondary schools in the school district, and the ability of the local school district to meet these needs. Award criteria for these must also be based on the quality of the applications submitted. Preference must be given to districts that demonstrate a commitment to serving the needs of unaccompanied youth.

(3) Districts receiving grants must measure during the academic year how often each student physically moves, what services families or unaccompanied youth could access, and whether or not a family or unaccompanied youth received stable housing by the end of the school year.

(4) Homeless students are defined as students without a fixed, regular, and adequate nighttime residence as set forth in the federal McKinney-Vento homeless education assistance act (P.L. 100-77; 101 Stat. 482).

(5) School districts may not use funds allocated under this section to supplant existing federal, state, or local resources for homeless student supports, which may include education liaisons.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.185C RCW to read as follows:

(1) Subject to funds appropriated for this specific purpose, the department, in consultation with the office of the superintendent of public instruction, shall administer a grant program that links homeless students and their families with stable housing located in the homeless student's school district. The goal of the program is to provide educational stability for homeless students by promoting housing stability.

(2) The department, working with the office of the superintendent of public instruction, shall develop a competitive grant process to make grant awards of no more than one hundred thousand dollars per school, not to exceed five hundred thousand dollars per school district, to school districts partnered with eligible organizations on implementation of the proposal. For the purposes of this subsection, "eligible organization" means any local government, local housing authority, regional support network established under chapter 71.24 RCW, nonprofit community or neighborhood-based organization, federally recognized Indian tribe in the state of Washington, or regional or statewide nonprofit housing assistance organization. Applications for the grant program must include contractual agreements between the housing providers and school districts defining the responsibilities and commitments of each party to identify, house, and support homeless students.

(3) The grants awarded to school districts shall not exceed fifteen school districts per school year. In determining which partnerships will receive grants, preference must be given to districts with a demonstrated commitment of partnership and history with eligible organizations.

(4) Activities eligible for assistance under this grant program include but are not limited to:

(a) Rental assistance, which includes utilities, security and utility deposits, first and last month's rent, rental application fees, moving expenses, and other eligible expenses to be determined by the department;

(b) Transportation assistance, including gasoline assistance for families with vehicles and bus passes;

(c) Emergency shelter; and

(d) Housing stability case management.

(5) All beneficiaries of funds from the grant program must be unaccompanied youth or from very low-income households. For the purposes of this subsection, "very low-income household" means an unaccompanied youth or family or unrelated persons living together whose adjusted income is less than fifty percent of the median family income, adjusted for household size, for the county where the grant recipient is located.

(6)(a) Grantee school districts must compile and report information to the department. The department shall report to the legislature the findings of the grantee, the housing stability of the homeless families, the academic performance of the grantee population, and any related policy recommendations.

(b) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180.

(7) In order to ensure that school districts are meeting the requirements of an approved program for homeless students, the office of the superintendent of public instruction shall monitor the programs at least once every two years. Monitoring shall begin during the 2016-17 school year.

(8) Any program review and monitoring under this section may be conducted concurrently with other program reviews and monitoring conducted by the department. In its review, the office of the superintendent of public instruction shall monitor program components that include but need not be limited to the process used by the district to identify and reach out to homeless students, assessment data and other indicators to determine how well the district is meeting the academic needs of homeless students, district expenditures used to expand opportunities for these students, and the academic progress of students under the program.

Sec. 4. RCW 28A.300.540 and 2015 c 69 s 28 are each amended to read as follows:

(1) For the purposes of this section, "unaccompanied homeless student" means a student who is not in the physical custody of a parent or guardian and is homeless as defined in RCW 43.330.702(2).

(2) By December 31, 2010, the office of the superintendent of public instruction shall establish a uniform process designed to track the additional expenditures for transporting homeless students, including expenditures required under the McKinney Vento act, reauthorized as Title X, Part C, of the no child left behind act, P.L. 107-110, in January 2002. Once established, the superintendent shall adopt the necessary administrative rules to direct each school district to adopt and use the uniform process and track these expenditures. The superintendent shall post on the superintendent's web site total expenditures related to the transportation of homeless students.

(3)(a) By January 10, 2015, and every odd-numbered year thereafter, the office of the superintendent of public instruction shall report to the governor and the legislature the following data for homeless students:

(i) The number of identified homeless students enrolled in public schools;

(ii) The number of identified unaccompanied homeless students enrolled in public schools, which number shall be included for each district and the state under "student demographics" on the Washington state report card web site;

(iii) The number of identified homeless students of color;

(iv) The number of students participating in the learning assistance program under chapter 28A.165 RCW, the highly capable program under chapter 28A.185 RCW, and the running start program under chapter 28A.600 RCW; and

((~~(iv)~~)) (v) The academic performance and educational outcomes of homeless students and unaccompanied homeless students, including but not limited to the following performance and educational outcomes:

(A) Student scores on the statewide administered academic assessments;

(B) English language proficiency;

(C) Dropout rates;

(D) Four-year adjusted cohort graduation rate;

(E) Five-year adjusted cohort graduation rate;

(F) Absenteeism rates;

(G) Truancy rates, if available; and

(H) Suspension and expulsion data.

(b) The data reported under this subsection (3) must include state and district-level information and must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, transitional bilingual, migrant, special education, and gender.

(4) By July 1, 2014, the office of the superintendent of public instruction in collaboration with experts from community organizations on homelessness and homeless education policy, shall develop or acquire a short video that provides information on how to identify signs that indicate a student may be homeless, how to provide services and support to homeless students, and why this identification and support is critical to student success. The video must be posted on the superintendent of public instruction's web site.

(5) By July 1, 2014, the office of the superintendent of public instruction shall adopt and distribute to each school district, best practices for choosing and training school district-designated homeless student liaisons.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.320 RCW to read as follows:

Each school district that has identified more than ten unaccompanied youth must establish a building point of contact in each middle school and high school. These points of contact must be appointed by the principal of the designated school and are responsible for identifying homeless and unaccompanied youth and connecting them with the school district's homeless student liaison. The school district homeless student liaison is responsible for training building points of contact.

Sec. 6. RCW 28A.320.145 and 2014 c 212 s 3 are each amended to read as follows:

(1) On an annual basis, each school district must strongly encourage:

(a) All school staff to annually review the video posted on the office of the superintendent of public instruction's web site on how to identify signs that indicate a student may be homeless, how to provide services and support to homeless students, and why this identification and support is critical to student success to ensure that homeless students are appropriately identified and supported; and

(b) Every district-designated homeless student liaison to attend trainings provided by the state to ensure that homeless children and youth are identified and served.

(2) Each school district shall include in existing materials that are shared with students at the beginning of the school year or at enrollment, information about services and support for homeless students, including the provisions of section 7 of this act. School districts may use the brochure posted on the web site of the office of the superintendent of public instruction as a resource. Schools are also strongly encouraged to use a variety of communications each year to notify students and families about services and support available to them if they experience homelessness, including but not limited to:

(a) Distributing and collecting an annual housing intake survey;

(b) Providing parent brochures directly to students and families;

(c) Announcing the information at school-wide assemblies; or

(d) Posting information on the district's web site or linking to the office of the superintendent of public instruction's web site.

NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) As allowed by RCW 7.70.065(2), a school nurse, school counselor, or homeless student liaison is authorized to provide informed consent for health care for a patient under the age of majority when:

(a) Consent is necessary for nonemergency outpatient primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations, and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries;

(b) The patient meets the definition of a "homeless child or youth" under the federal McKinney-Vento homeless education assistance improvements act of 2001, P.L. 107-110, January 8, 2002, (115 Stat. 2005); and

(c) The patient is not under the supervision or control of a parent, custodian, or legal guardian.

(2) A person consenting to care under this section and the person's employing school are not liable for any care or payment for any care rendered pursuant to this section.

(3) A person consenting to care under this section must provide written notice of his or her exemption from liability under this section to the person providing care.

NEW SECTION. **Sec. 8.** This act may be known and cited as the homeless student stability and opportunity gap act.

Passed by the House March 8, 2016.

Passed by the Senate March 3, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 158

[Second Substitute House Bill 1448]

THREATENED OR ATTEMPTED SUICIDE--LAW ENFORCEMENT REFERRAL TO MENTAL HEALTH AGENCY

AN ACT Relating to procedures for responding to reports of threatened or attempted suicide; amending RCW 71.05.120; adding new sections to chapter 71.05 RCW; and creating new sections.

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

NEW SECTION. **Sec. 1.** The legislature finds that law enforcement officers may respond to situations in which an individual has threatened harm to himself or herself, but that individual does not meet the criteria to be taken into custody for an evaluation under the involuntary treatment act. In these situations, officers are encouraged to facilitate contact between the individual and a mental health professional in order to protect the individual and the community. While the legislature acknowledges that some law enforcement officers receive mental health training, law enforcement officers are not mental health professionals. It is the intent of the legislature that mental health incidents are addressed by mental health professionals.

NEW SECTION. **Sec. 2.** A new section is added to chapter 71.05 RCW to read as follows:

When funded, the Washington association of sheriffs and police chiefs, in consultation with the criminal justice training commission, must develop and adopt a model policy for use by law enforcement agencies relating to a law enforcement officer's referral of a person to a mental health agency after receiving a report of threatened or attempted suicide. The model policy must complement the criminal justice training commission's crisis intervention training curriculum.

NEW SECTION. **Sec. 3.** A new section is added to chapter 71.05 RCW to read as follows:

By July 1, 2017, all general authority Washington law enforcement agencies must adopt a policy establishing criteria and procedures for a law enforcement officer to refer a person to a mental health agency after receiving a report of threatened or attempted suicide.

Sec. 4. RCW 71.05.120 and 2000 c 94 s 4 are each amended to read as follows:

(1) No officer of a public or private agency, nor the superintendent, professional person in charge, his or her professional designee, or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a person pursuant to this chapter, nor any county designated mental health professional, nor the state, a unit of local government, or an evaluation and treatment facility shall be civilly or criminally liable for performing duties pursuant to this chapter with regard to the decision of whether to admit, discharge, release, administer antipsychotic medications, or detain a person for

evaluation and treatment: PROVIDED, That such duties were performed in good faith and without gross negligence.

(2) Peace officers and their employing agencies are not liable for the referral of a person, or the failure to refer a person, to a mental health agency pursuant to a policy adopted pursuant to section 3 of this act if such action or inaction is taken in good faith and without gross negligence.

(3) This section does not relieve a person from giving the required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn or to take reasonable precautions to provide protection from violent behavior where the patient has communicated an actual threat of physical violence against a reasonably identifiable victim or victims. The duty to warn or to take reasonable precautions to provide protection from violent behavior is discharged if reasonable efforts are made to communicate the threat to the victim or victims and to law enforcement personnel.

NEW SECTION. **Sec. 5.** A new section is added to chapter 71.05 RCW to read as follows:

As soon as possible, but no later than twenty-four hours from receiving a referral from a law enforcement officer or law enforcement agency, excluding Saturdays, Sundays, and holidays, a mental health professional contacted by the designated mental health professional agency must attempt to contact the referred person to determine whether additional mental health intervention is necessary including, if needed, an assessment by a designated mental health professional for initial detention under RCW 71.05.150 or 71.05.153. Documentation of the mental health professional's attempt to contact and assess the person must be maintained by the designated mental health professional agency.

NEW SECTION. **Sec. 6.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2016, in the omnibus appropriations act, this act is null and void.

Passed by the House March 8, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 159

[Substitute House Bill 2985]

SCHOOL EDUCATIONAL SPACE INVENTORY--EXCLUDED SPACES--USE

AN ACT Relating to excluding certain school facilities from the inventory of educational space for determining eligibility for state assistance for common school construction; and amending RCW 28A.525.055.

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

Sec. 1. RCW 28A.525.055 and 2006 c 263 s 304 are each amended to read as follows:

(1) The rules adopted by the superintendent of public instruction for determining eligibility for state assistance for new construction shall exclude from the inventory of available educational space those spaces that have been:

(a) Constructed for educational and community activities from grants received from other public or private entities; or

(b) Vacated by new construction in lieu of modernization; and

(i) Used for purposes of supporting state-funded all-day kindergarten or class size reduction in kindergarten through third grade, if the lack of district facilities warrants such a use; or

(ii) The district is experiencing a short-term special school housing burden due to enrollment growth and failed school construction bond elections within the prior five years.

(2) The exclusion in subsection (1)(b) of this section applies for state assistance for new construction awarded from July 1, 2016, through June 30, 2021.

(3) Educational spaces with classrooms occupied by students specified in subsection (1)(b) of this section must meet the safety standards for public school facilities.

(4) For the purposes of this section, "school housing burden" means the current instructional facility inventory does not provide the classroom capacity needed for the current or projected enrollment of the school district, as determined by the office of the superintendent of public instruction. The office shall give consideration to available instructional facility inventory or capacity of the neighboring school district.

Passed by the House March 10, 2016.
Passed by the Senate March 10, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 160

[House Bill 2320]

HORSE RACING COMMISSION OPERATING ACCOUNT--NONAPPROPRIATED ACCOUNT

AN ACT Relating to providing that the horse racing commission operating account is a nonappropriated account; and amending RCW 67.16.280.

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

Sec. 1. RCW 67.16.280 and 2013 c 88 s 2 are each amended to read as follows:

(1)(a) The Washington horse racing commission operating account is created in the custody of the state treasurer. All receipts collected by the commission under RCW 67.16.105(2) must be deposited into the account. ((~~The commission has the authority to 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 purpose of regulating or supporting nonprofit race meets as set forth in RCW 67.16.130 and 67.16.105(1); such gifts, grants, and endowments must also be deposited into the account and expended according to the terms of such gift, grant, or endowment. Moneys in the account may be spent only after appropriation. Except as provided in subsection (2) of this section, expenditures from the account may be used only for operating expenses of the commission.~~)) Expenditures from the account may be used only for the operating expenses of the commission. Only the commission or the commission'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.

(b) The commission has the authority to 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 purpose of regulating or supporting nonprofit race meets as set forth in RCW 67.16.130 and 67.16.105(1); such gifts, grants, and endowments must also be deposited into the horse racing commission operating account and expended according to the terms of such gift, grant, or endowment.

(2) In order to provide funding in support of the legislative findings in RCW 67.16.101 (1) through (3), and to provide additional necessary support to the nonprofit race meets beyond the funding provided by RCW 67.16.101(4) and 67.16.102(2), the commission is authorized to spend up to three hundred thousand dollars per fiscal year from its operating account for the purpose of developing the equine industry, maintaining and upgrading racing facilities, and assisting equine health research. When determining how to allocate the funds available for these purposes, the commission must give first consideration to uses that regulate and assist the nonprofit race meets and equine health research. These expenditures may occur only when sufficient funds remain for the continued operations of the horse racing commission.

Passed by the House February 15, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 161

[Substitute House Bill 2357]

POLLUTION LIABILITY INSURANCE AGENCY--PETROLEUM UNDERGROUND STORAGE TANKS--LOAN AND GRANT PROGRAM

AN ACT Relating to the authority of the pollution liability insurance agency; amending RCW 70.148.020, 70.148.900, 70.149.900, 82.23A.020, and 82.23A.902; reenacting and amending RCW 43.84.092; adding a new chapter to Title 70 RCW; creating a new section; repealing RCW 70.148.120, 70.148.130, 70.148.140, 70.148.150, 70.148.160, and 70.148.170; providing an effective date; and providing expiration dates.

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

NEW SECTION. **Sec. 1.** The legislature intends for the pollution liability insurance agency to establish a revolving loan and grant program to assist owners and operators of petroleum underground storage tank systems to: (1) Remediate past releases; (2) upgrade, replace, or remove petroleum underground storage tank systems to prevent future releases; and (3) install new infrastructure or retrofit existing infrastructure for dispensing renewable or alternative energy.

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

(1) "Agency" means the Washington state pollution liability insurance agency.

(2) "Local government" means any political subdivision of the state, including a town, city, county, special purpose district, or other municipal corporation.

(3) "Operator" means any person in control of, or having responsibility for, the daily operation of a petroleum underground storage tank system.

(4) "Owner" means any person who owns a petroleum underground storage tank system.

(5) "Petroleum underground storage tank system" means an underground storage tank system regulated under chapter 90.76 RCW or subtitle I of the solid waste disposal act (42 U.S.C. Chapter 82, Subchapter IX) that is used for storing petroleum.

(6) "Release" has the same meaning as defined in RCW 70.105D.020.

(7) "Remedial action" has the same meaning as defined in RCW 70.105D.020.

(8) "Underground storage tank facility" means the location where one or more underground storage tank systems are installed. A facility encompasses all contiguous real property under common ownership associated with the operation of the underground storage tank system or systems.

(9) "Underground storage tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any, and includes any aboveground ancillary equipment connected to the underground storage tank or piping, such as dispensers.

NEW SECTION. **Sec. 3.** (1) The agency shall establish an underground storage tank revolving loan and grant program to provide loans or grants to owners or operators to:

(a) Conduct remedial actions in accordance with chapter 70.105D RCW, including investigations and cleanups of any release or threatened release of a hazardous substance at or affecting an underground storage tank facility, provided that at least one of the releases or threatened releases involves petroleum;

(b) Upgrade, replace, or permanently close a petroleum underground storage tank system in accordance with chapter 90.76 RCW or subtitle I of the solid waste disposal act (42 U.S.C., chapter 82, subchapter IX), as applicable;

(c) Install new infrastructure or retrofit existing infrastructure at an underground storage tank facility for dispensing renewable or alternative energy for motor vehicles, including electric vehicle charging stations, when conducted in conjunction with either (a) or (b) of this subsection; or

(d) Install and subsequently remove a temporary petroleum aboveground storage tank system in compliance with applicable laws, when conducted in conjunction with either (a) or (b) of this subsection.

(2) The maximum amount that may be loaned or granted under this program to an owner or operator for a single underground storage tank facility is two million dollars.

NEW SECTION. **Sec. 4.** (1) A recipient of a loan or grant may not use these funds to conduct remedial actions of a release or threatened release from a petroleum underground storage tank system requiring financial assurances under chapter 90.76 RCW or subtitle I of the solid waste disposal act (42 U.S.C., chapter 82, subchapter IX) unless the owner or operator:

(a) Agrees to first expend all moneys available under the required financial assurances;

(b) Demonstrates that all moneys available under the required financial assurances have been expended; or

(c) Demonstrates that a claim has been made under the required financial assurances and the claim has been rejected by the provider.

(2) A recipient must use a loan or grant for a project that develops and acquires assets that have a useful life of at least thirteen years.

NEW SECTION. **Sec. 5.** The agency shall partner and enter into a memorandum of agreement with the department of health to implement the revolving loan and grant program.

(1) The agency shall select loan and grant recipients and manage the work conducted under section 3(1) of this act.

(2) The department of health shall administer the loans and grants to qualified recipients as determined by the agency.

(3) The department of health may collect, from persons requesting financial assistance, loan origination fees to cover costs incurred by the department of health in operating the financial assistance program.

(4) The agency may use the moneys in the pollution liability insurance agency underground storage tank revolving account to fund the department of health's operating costs for the program.

NEW SECTION. **Sec. 6.** (1) The agency may conduct remedial actions and investigate or clean up a release or threatened release of a hazardous substance at or affecting an underground storage tank facility if the following conditions are met:

(a) The owner or operator received a loan or grant for the underground storage tank facility under the revolving program created in this chapter for two million dollars or less;

(b) The remedial actions are conducted in accordance with the rules adopted under chapter 70.105D RCW;

(c) The owner of real property subject to the remedial actions provides consent for the agency to:

(i) Recover the remedial action costs from the owner; and

(ii) Enter upon the real property to conduct remedial actions limited to those authorized by the owner or operator. Remedial actions must be focused on maintaining the economic vitality of the property. The agency or the agency's authorized representatives shall give reasonable notice before entering property unless an emergency prevents the notice; and

(d) The owner of the underground storage tank facility consents to the agency filing a lien on the underground storage tank facility to recover the agency's remedial action costs.

(2) The agency may conduct the remedial actions authorized under subsection (1) of this section using the moneys in the pollution liability insurance agency underground storage tank revolving account, as required under section 5 of this act. However, for any remedial action where the owner or operator has received a loan or grant, the agency may not expend more than the difference between the amount loaned or granted and two million dollars.

(3) The agency may request informal advice and assistance and written opinions on the sufficiency of remedial actions from the department of ecology under RCW 70.105D.030(1)(i).

NEW SECTION. **Sec. 7.** (1) The agency may file a lien against the underground storage tank facility if the agency incurs remedial action costs and those costs are unrecovered by the agency.

(a) A lien filed under this section may not exceed the remedial action costs incurred by the agency.

(b) A lien filed under this section has priority in rank over all other privileges, liens, monetary encumbrances, or other security interests affecting the real property, whenever incurred, filed, or recorded, except for local and special district property tax assessments.

(2) Before filing a lien under this section, the agency shall give notice of its intent to file a lien to the owner of the underground storage tank facility on which the lien is to be filed, mortgagees, and lien holders of record.

(a) The agency shall send the notice by certified mail to the underground storage tank facility owner and mortgagees of record at the addresses listed in the recorded documents. If the underground storage tank facility owner is unknown or if a mailed notice is returned as undeliverable, the agency shall provide notice by posting a legal notice in the newspaper of largest circulation in the county in which the site is located. The notice must provide:

(i) A statement of the purpose of the lien;

(ii) A brief description of the real property to be affected by the lien; and

(iii) A statement of the remedial action costs incurred by the agency.

(b) If the agency has reason to believe that exigent circumstances require the filing of a lien prior to giving notice under this subsection, the agency may file the lien immediately. Exigent circumstances include, but are not limited to, an imminent bankruptcy filing by the underground storage tank facility owner or the imminent transfer or sale of the real property subject to lien by the underground storage tank facility owner, or both.

(3) A lien filed under this section is effective when a statement of lien is filed with the county auditor in the county where the underground storage tank facility is located. The statement of lien must include a description of the real property subject to lien and the amount of the lien.

(4) Unless the agency determines it is in the public interest to remove the lien, the lien continues until the liabilities for the remedial action costs have been satisfied through sale of the real property, foreclosure, or other means agreed to by the agency. Any action for foreclosure of the lien must be brought by the attorney general in a civil action in the court having jurisdiction and in the manner prescribed for judicial foreclosure of a mortgage under chapter 61.24 RCW.

(5) The agency may not file a lien under this section against an underground storage tank facility owned by a local government.

NEW SECTION. **Sec. 8.** (1) The pollution liability insurance agency underground storage tank revolving account is created in the state treasury. All receipts from sources identified under subsection (2) of this section must be deposited into the account. Moneys in the account may be spent only after

appropriation. Expenditures from the account may be used only for items identified under subsection (3) of this section.

(2) The following receipts must be deposited into the account:

(a) All moneys appropriated by the legislature to pay for the agency's operating costs to carry out the purposes of this chapter;

(b) All moneys appropriated by the legislature to provide loans and grants under section 3 of this act;

(c) Any repayment of loans provided under section 3 of this act;

(d) All moneys appropriated by the legislature to conduct remedial actions under section 6 of this act;

(e) Any recovery of the costs of remedial actions conducted under section 6 of this act;

(f) Any grants provided by the federal government to the agency to achieve the purposes of this chapter; and

(g) Any other deposits made from a public or private entity to achieve the purposes of this chapter.

(3) Moneys in the account may be used by the agency only to carry out the purposes of this chapter including, but not limited to:

(a) The costs of the agency and department of health to carry out the purposes of this chapter;

(b) Loans and grants under section 3 of this act;

(c) Remedial actions under section 6 of this act; and

(d) State match requirements for grants provided to the agency by the federal government.

NEW SECTION. **Sec. 9.** By September 1st of each even-numbered year, the agency must provide the office of financial management and the appropriate legislative committees a report on the agency's activities supported by expenditures from the pollution liability insurance agency underground storage tank revolving account. The report must at a minimum include:

(1) The amount of money the legislature appropriated from the pollution liability insurance agency underground storage tank revolving account under section 8 of this act during the last biennium;

(2) For the previous biennium, the total number of loans and grants, the amounts loaned or granted, sites cleaned up, petroleum underground storage tank systems upgraded, replaced, or permanently closed, and jobs preserved;

(3) For each loan and grant awarded during the previous biennium, the name of the recipient, the location of the underground storage tank facility, a description of the project and its status, the amount loaned, and the amount repaid;

(4) For each underground storage tank facility where the agency conducted remedial actions under section 6 of this act during the previous biennium, the name and location of the site, the amount of money used to conduct the remedial actions, the status of remedial actions, whether liens were filed against the underground storage tank facility under section 7 of this act, and the amount of money recovered; and

(5) The operating costs of the agency and department of health to carry out the purposes of this chapter during the last biennium.

NEW SECTION. **Sec. 10.** The agency must adopt rules under chapter 34.05 RCW necessary to carry out the provisions of this chapter. To accelerate remedial actions, the agency shall enter into a memorandum of agreement with the department of health under section 5 of this act within one year of the effective date of this section. To ensure the adoption of rules will not delay the award of a loan or grant, the agency may implement the underground storage tank revolving program through interpretative guidance pending adoption of rules.

NEW SECTION. **Sec. 11.** Officers, employees, and authorized representatives of the agency and the department of health, and the state of Washington are immune from civil liability and no cause of action of any nature may arise from any act or omission in exercising powers and duties under this chapter.

NEW SECTION. **Sec. 12.** Nothing in this chapter limits the authority of the department of ecology under chapter 70.105D RCW.

NEW SECTION. **Sec. 13.** (1) Sections 1 through 12 of this act expire July 1, 2030.

(2) The expiration of sections 1 through 12 of this act does not terminate any of the following rights, obligations, authorities or any provision necessary to carry out:

(a) The repayment of loans due and payable to the lender or the state of Washington;

(b) The resolution of any cost recovery action or the initiation of any action or other collection process to recover defaulted loan moneys due to the state of Washington; and

(c) The resolution of any action or the initiation of any action to recover the agency's remedial actions costs under section 7 of this act.

(3) On July 1, 2030, the pollution liability insurance agency underground storage tank revolving account and all moneys due that account revert to, and accrue to the benefit of, the department of health.

NEW SECTION. **Sec. 14.** 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.

Sec. 15. RCW 70.148.020 and 2013 2nd sp.s. c 4 s 993 are each amended to read as follows:

(1) The pollution liability insurance program trust account is established in the custody of the state treasurer. All funds appropriated for this chapter and all premiums collected for reinsurance shall be deposited in the account. Except as provided in chapter 70.--- RCW (the new chapter created in section 22 of this act), expenditures from the account shall be used exclusively for the purposes of this chapter including payment of costs of administering the pollution liability insurance and underground storage tank community assistance programs. Expenditures for payment of administrative and operating costs of the agency are subject to the allotment procedures under chapter 43.88 RCW and may be made only after appropriation by statute. No appropriation is required for other expenditures from the account.

(2) Each calendar quarter, the director shall report to the insurance commissioner the loss and surplus reserves required for the calendar quarter. The

director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter.

(3) ((~~Each calendar quarter the director shall determine the amount of reserves necessary to fund commitments made to provide financial assistance under RCW 70.148.130 to the extent that the financial assistance reserves do not jeopardize the operations and liabilities of the pollution liability insurance program. The director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter. The director may immediately establish an initial financial assistance reserve of five million dollars from available revenues. The director may not expend more than fifteen million dollars for the financial assistance program.~~

~~(4) During the 2013-2015 fiscal biennium, the legislature may transfer from the pollution liability insurance program trust account to the state general fund such amounts as reflect the excess fund balance of the account.~~

~~(5)~~)) This section expires July 1, ((~~2020~~)) 2030.

Sec. 16. RCW 70.148.900 and 2012 1st sp.s. c 3 s 2 are each amended to read as follows:

This chapter expires July 1, ((~~2020~~)) 2030.

Sec. 17. RCW 70.149.900 and 2012 1st sp.s. c 3 s 3 are each amended to read as follows:

This chapter expires July 1, ((~~2020~~)) 2030.

Sec. 18. RCW 82.23A.020 and 2012 1st sp.s. c 3 s 5 are each amended to read as follows:

(1) A tax is imposed on the privilege of possession of petroleum products in this state. The rate of the tax shall be thirty one-hundredths of one percent multiplied by the wholesale value of the petroleum product. After July 1, 2021, the rate of tax is fifteen one-hundredths of one percent multiplied by the wholesale value of the petroleum product. For purposes of determining the tax imposed under this section for petroleum products introduced at the rack, the wholesale value is determined when the petroleum product is removed at the rack unless the removal is to an exporter licensed under chapter ((~~82.36 or~~)) 82.38 RCW for direct delivery to a destination outside of the state. For all other cases, the wholesale value is determined upon the first nonbulk possession in the state.

(2) Except as identified in section 21 of this act, moneys collected under this chapter shall be deposited in the pollution liability insurance program trust account under RCW 70.148.020.

(3) Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter.

(4) Within thirty days after the end of each calendar quarter the department shall determine the "quarterly balance," which shall be the cash balance in the pollution liability insurance program trust account as of the last day of that calendar quarter, after excluding the reserves determined for that quarter under RCW 70.148.020(2) ((~~and (3)~~)). Balance determinations by the department under this section are final and shall not be used to challenge the validity of any tax imposed under this section. For each subsequent calendar quarter, tax shall be imposed under this section during the entire calendar quarter unless:

(a) Tax was imposed under this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than fifteen million dollars; or

(b) Tax was not imposed under this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than seven million five hundred thousand dollars.

Sec. 19. RCW 82.23A.902 and 2012 1st sp.s. c 3 s 6 are each amended to read as follows:

This chapter expires July 1, ((~~2020~~)) 2030, coinciding with the expiration of chapter 70.148 RCW.

Sec. 20. RCW 43.84.092 and 2015 3rd sp.s. c 44 s 107 and 2015 3rd sp.s. c 12 s 3 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable

bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental

pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 21.** (1) On July 1, 2016, if the cash balance amount in the pollution liability insurance program trust account exceeds seven million five hundred thousand dollars after excluding the reserves under RCW 70.148.020(2), the state treasurer shall transfer the amount exceeding seven million five hundred thousand dollars, up to a transfer of ten million dollars, from the pollution liability insurance program trust account into the pollution liability insurance agency underground storage tank revolving account.

(2) On July 1, 2017, and every two years thereafter at the start of each successive biennium, if the cash balance amount in the pollution liability insurance program trust account exceeds seven million five hundred thousand dollars, the state treasurer shall transfer the amount exceeding seven million five hundred thousand dollars after excluding the reserves under RCW

70.148.020(2), up to a transfer of twenty million dollars, from the pollution liability insurance program trust account into the pollution liability insurance agency underground storage tank revolving account. If twenty million dollars is not available to be transferred at the beginning of the first fiscal year of the biennium, on July 1st of the subsequent fiscal year, if the cash balance amount in the pollution liability insurance program trust account exceeds seven million five hundred thousand dollars after excluding the reserves under RCW 70.148.020(2), the state treasurer shall transfer the amount exceeding seven million five hundred thousand dollars from the pollution liability insurance program trust account into the pollution liability insurance agency underground storage tank revolving account. The total amount transferred in a biennium from the pollution liability insurance program trust account into the pollution liability insurance agency underground storage tank revolving account may not exceed twenty million dollars.

NEW SECTION. **Sec. 22.** Sections 1 through 13, 21, and 23 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 23.** Sections 1 through 13 of this act take effect July 1, 2016.

NEW SECTION. **Sec. 24.** The following acts or parts of acts are each repealed:

(1) RCW 70.148.120 (Financial assistance for corrective actions in small communities—Intent) and 2005 c 428 s 1 & 1991 c 4 s 1;

(2) RCW 70.148.130 (Financial assistance—Criteria) and 2005 c 428 s 2 & 1991 c 4 s 2;

(3) RCW 70.148.140 (Financial assistance—Private owner or operator) and 1991 c 4 s 3;

(4) RCW 70.148.150 (Financial assistance—Public owner or operator) and 1991 c 4 s 4;

(5) RCW 70.148.160 (Financial assistance—Rural hospitals) and 1991 c 4 s 5; and

(6) RCW 70.148.170 (Certification) and 1991 c 4 s 6.

Passed by the House February 10, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 162

[House Bill 2360]

QUALITY EDUCATION COUNCIL--ELIMINATION

AN ACT Relating to eliminating the quality education council; amending RCW 28A.175.075, 28A.230.090, 28A.300.136, and 28A.400.201; and repealing RCW 28A.290.010 and 28A.290.020.

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

Sec. 1. RCW 28A.175.075 and 2013 c 23 s 46 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall establish a state-level building bridges work group that includes K-12 and state agencies

that work with youth who have dropped out or are at risk of dropping out of school. The following agencies shall appoint representatives to the work group: The office of the superintendent of public instruction, the workforce training and education coordinating board, the department of early learning, the employment security department, the state board for community and technical colleges, the department of health, the community mobilization office, and the children's services and behavioral health and recovery divisions of the department of social and health services. The work group should also consist of one representative from each of the following agencies and organizations: A statewide organization representing career and technical education programs including skill centers; the juvenile courts or the office of juvenile justice, or both; the Washington association of prosecuting attorneys; the Washington state office of public defense; accredited institutions of higher education; the educational service districts; the area workforce development councils; parent and educator associations; educational opportunity gap oversight and accountability committee; office of the education ombuds; local school districts; agencies or organizations that provide services to special education students; community organizations serving youth; federally recognized tribes and urban tribal centers; each of the major political caucuses of the senate and house of representatives; and the minority commissions.

(2) To assist and enhance the work of the building bridges programs established in RCW 28A.175.025, the state-level work group shall:

(a) Identify and make recommendations to the legislature for the reduction of fiscal, legal, and regulatory barriers that prevent coordination of program resources across agencies at the state and local level;

(b) Develop and track performance measures and benchmarks for each partner agency or organization across the state including performance measures and benchmarks based on student characteristics and outcomes specified in RCW 28A.175.035(1)(e); and

(c) Identify research-based and emerging best practices regarding prevention, intervention, and retrieval programs.

(3)(a) The work group shall report to the ((~~quality education council,~~)) appropriate committees of the legislature((~~,~~)) and the governor on an annual basis beginning December 1, 2007, with proposed strategies for building K-12 dropout prevention, intervention, and reengagement systems in local communities throughout the state including, but not limited to, recommendations for implementing emerging best practices, needed additional resources, and eliminating barriers.

(b) By September 15, 2010, the work group shall report on:

(i) A recommended state goal and annual state targets for the percentage of students graduating from high school;

(ii) A recommended state goal and annual state targets for the percentage of youth who have dropped out of school who should be reengaged in education and be college and work ready;

(iii) Recommended funding for supporting career guidance and the planning and implementation of K-12 dropout prevention, intervention, and reengagement systems in school districts and a plan for phasing the funding into the program of basic education, beginning in the 2011-2013 biennium; and

(iv) A plan for phasing in the expansion of the current school improvement planning program to include state-funded, dropout-focused school improvement technical assistance for school districts in significant need of improvement regarding high school graduation rates.

(4) State agencies in the building bridges work group shall work together, wherever feasible, on the following activities to support school/family/community partnerships engaged in building K-12 dropout prevention, intervention, and reengagement systems:

(a) Providing opportunities for coordination and flexibility of program eligibility and funding criteria;

(b) Providing joint funding;

(c) Developing protocols and templates for model agreements on sharing records and data;

(d) Providing joint professional development opportunities that provide knowledge and training on:

(i) Research-based and promising practices;

(ii) The availability of programs and services for vulnerable youth; and

(iii) Cultural competence.

(5) The building bridges work group shall make recommendations to the governor and the legislature by December 1, 2010, on a state-level and regional infrastructure for coordinating services for vulnerable youth. Recommendations must address the following issues:

(a) Whether to adopt an official conceptual approach or framework for all entities working with vulnerable youth that can support coordinated planning and evaluation;

(b) The creation of a performance-based management system, including outcomes, indicators, and performance measures relating to vulnerable youth and programs serving them, including accountability for the dropout issue;

(c) The development of regional and/or county-level multipartner youth consortia with a specific charge to assist school districts and local communities in building K-12 comprehensive dropout prevention, intervention, and reengagement systems;

(d) The development of integrated or school-based one-stop shopping for services that would:

(i) Provide individualized attention to the neediest youth and prioritized access to services for students identified by a dropout early warning and intervention data system;

(ii) Establish protocols for coordinating data and services, including getting data release at time of intake and common assessment and referral processes; and

(iii) Build a system of single case managers across agencies;

(e) Launching a statewide media campaign on increasing the high school graduation rate; and

(f) Developing a statewide database of available services for vulnerable youth.

Sec. 2. RCW 28A.230.090 and 2014 c 217 s 202 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students, except as provided in RCW

28A.230.122 and except those equivalencies established by local high schools or school districts under RCW 28A.230.097. The purpose of a high school diploma is to declare that a student is ready for success in postsecondary education, gainful employment, and citizenship, and is equipped with the skills to be a lifelong learner.

(a) Any course in Washington state history and government used to fulfill high school graduation requirements shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(b) The certificate of academic achievement requirements under RCW 28A.655.061 or the certificate of individual achievement requirements under RCW 28A.155.045 are required for graduation from a public high school but are not the only requirements for graduation.

(c) Any decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level. Effective with the graduating class of 2015, the state board of education may not establish a requirement for students to complete a culminating project for graduation.

(d)(i) The state board of education shall adopt rules to implement the career and college ready graduation requirement proposal adopted under board resolution on November 10, 2010, and revised on January 9, 2014, to take effect beginning with the graduating class of 2019 or as otherwise provided in this subsection (1)(d). The rules must include authorization for a school district to waive up to two credits for individual students based on unusual circumstances and in accordance with written policies that must be adopted by each board of directors of a school district that grants diplomas. The rules must also provide that the content of the third credit of mathematics and the content of the third credit of science may be chosen by the student based on the student's interests and high school and beyond plan with agreement of the student's parent or guardian or agreement of the school counselor or principal.

(ii) School districts may apply to the state board of education for a waiver to implement the career and college ready graduation requirement proposal beginning with the graduating class of 2020 or 2021 instead of the graduating class of 2019. In the application, a school district must describe why the waiver is being requested, the specific impediments preventing timely implementation, and efforts that will be taken to achieve implementation with the graduating class proposed under the waiver. The state board of education shall grant a waiver under this subsection (1)(d) to an applying school district at the next subsequent meeting of the board after receiving an application.

(2)(a) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(b) The state board shall reevaluate the graduation requirements for students enrolled in vocationally intensive and rigorous career and technical education programs, particularly those programs that lead to a certificate or credential that is state or nationally recognized. The purpose of the evaluation is to ensure that students enrolled in these programs have sufficient opportunity to earn a

certificate of academic achievement, complete the program and earn the program's certificate or credential, and complete other state and local graduation requirements.

(c) The state board shall forward any proposed changes to the high school graduation requirements to the education committees of the legislature for review ((~~and to the quality education council established under RCW 28A.290.010~~)). The legislature shall have the opportunity to act during a regular legislative session before the changes are adopted through administrative rule by the state board. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized and funded by the legislature through the omnibus appropriations act or other enacted legislation.

(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) If requested by the student and his or her family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit.

(6) At the college or university level, five quarter or three semester hours equals one high school credit.

Sec. 3. RCW 28A.300.136 and 2013 c 23 s 49 are each amended to read as follows:

(1) An educational opportunity gap oversight and accountability committee is created to synthesize the findings and recommendations from the 2008 achievement gap studies into an implementation plan, and to recommend policies and strategies to the superintendent of public instruction, the professional educator standards board, and the state board of education to close the achievement gap.

(2) The committee shall recommend specific policies and strategies in at least the following areas:

(a) Supporting and facilitating parent and community involvement and outreach;

(b) Enhancing the cultural competency of current and future educators and the cultural relevance of curriculum and instruction;

(c) Expanding pathways and strategies to prepare and recruit diverse teachers and administrators;

(d) Recommending current programs and resources that should be redirected to narrow the gap;

(e) Identifying data elements and systems needed to monitor progress in closing the gap;

(f) Making closing the achievement gap part of the school and school district improvement process; and

(g) Exploring innovative school models that have shown success in closing the achievement gap.

(3) Taking a multidisciplinary approach, the committee may seek input and advice from other state and local agencies and organizations with expertise in health, social services, gang and violence prevention, substance abuse prevention, and other issues that disproportionately affect student achievement and student success.

(4) The educational opportunity gap oversight and accountability committee shall be composed of the following members:

(a) The chairs and ranking minority members of the house and senate education committees, or their designees;

(b) One additional member of the house of representatives appointed by the speaker of the house and one additional member of the senate appointed by the president of the senate;

(c) A representative of the office of the education ombuds;

(d) A representative of the center for the improvement of student learning in the office of the superintendent of public instruction;

(e) A representative of federally recognized Indian tribes whose traditional lands and territories lie within the borders of Washington state, designated by the federally recognized tribes; and

(f) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African-Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans.

(5) The governor and the tribes are encouraged to designate members who have experience working in and with schools.

(6) The committee may convene ad hoc working groups to obtain additional input and participation from community members. Members of ad hoc working groups shall serve without compensation and shall not be reimbursed for travel or other expenses.

(7) The chair or cochairs of the committee shall be selected by the members of the committee. Staff support for the committee shall be provided by the center for the improvement of student learning. Members of the committee shall serve without compensation but must be reimbursed as provided in RCW 43.03.050 and 43.03.060. Legislative members of the committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(8) The superintendent of public instruction, the state board of education, and the professional educator standards board((~~, and the quality education~~

~~council~~)) shall work collaboratively with the educational opportunity gap oversight and accountability committee to close the achievement gap.

Sec. 4. RCW 28A.400.201 and 2011 1st sp.s. c 43 s 468 are each amended to read as follows:

(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation model and recognizes that changes to the current model cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

(2) Beginning July 1, 2011, the office of the superintendent of public instruction, in collaboration with the human resources director in the office of financial management, shall convene a technical working group to recommend the details of an enhanced salary allocation model that aligns state expectations for educator development and certification with the compensation system and establishes recommendations for a concurrent implementation schedule. In addition to any other details the technical working group deems necessary, the technical working group shall make recommendations on the following:

(a) How to reduce the number of tiers within the existing salary allocation model;

(b) How to account for labor market adjustments;

(c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;

(d) The role of and types of bonuses available;

(e) Ways to accomplish salary equalization over a set number of years; and

(f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule.

(3) As part of its work, the technical working group shall conduct or contract for a preliminary comparative labor market analysis of salaries and other compensation for school district employees to be conducted and shall include the results in any reports to the legislature. For the purposes of this subsection, "salaries and other compensation" includes average base salaries, average total salaries, average employee basic benefits, and retirement benefits.

(4) The analysis required under subsection (1) of this section must:

(a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;

(b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and

(c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

(5) The working group shall include representatives of the office of financial management, the professional educator standards board, the office of the superintendent of public instruction, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with appropriate expertise in compensation related matters. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(6) The working group shall be monitored and overseen by the legislature ((~~and the quality education council created in RCW 28A.290.010~~)). The working group shall make an initial report to the legislature by June 30, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

NEW SECTION. **Sec. 5.** The following acts or parts of acts are each repealed:

(1) RCW 28A.290.010 (Quality education council—Purpose—Membership and staffing—Reports) and 2013 2nd sp.s. c 25 s 7 & 2011 1st sp.s. c 21 s 54; and

(2) RCW 28A.290.020 (Funding formulas to support instructional program—Technical working group) and 2010 c 236 s 5 & 2009 c 548 s 112.

Passed by the House February 15, 2016.
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CHAPTER 163

[Engrossed House Bill 2362]

LAW ENFORCEMENT AND CORRECTIONS OFFICERS--VIDEO AND SOUND RECORDINGS--DISCLOSURE

AN ACT Relating to video and/or sound recordings made by law enforcement or corrections officers; amending RCW 42.56.120; reenacting and amending RCW 42.56.240 and 42.56.080; adding a new chapter to Title 10 RCW; creating new sections; and providing expiration dates.

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

NEW SECTION. **Sec. 1.** The legislature finds that technological developments present opportunities for additional truth-finding, transparency, and accountability in interactions between law enforcement or corrections officers and the public. The legislature intends to promote transparency and accountability by permitting access to video and/or sound recordings of interactions with law enforcement or corrections officers, while preserving the public's reasonable expectation that the recordings of these interactions will not be publicly disclosed to enable voyeurism or exploitation.

Sec. 2. RCW 42.56.240 and 2015 c 224 s 3 and 2015 c 91 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;

(10) The felony firearm offense conviction database of felony firearm offenders established in RCW 43.43.822;

(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;

(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; ((~~and~~))

(13) The global positioning system data that would indicate the location of the residence of an employee or worker of a criminal justice agency as defined in RCW 10.97.030; and

(14) Body worn camera recordings to the extent nondisclosure is essential for the protection of any person's right to privacy as described in RCW 42.56.050, including, but not limited to, the circumstances enumerated in (a) of this subsection. A law enforcement or corrections agency shall not disclose a body worn camera recording to the extent the recording is exempt under this subsection.

(a) Disclosure of a body worn camera recording is presumed to be highly offensive to a reasonable person under RCW 42.56.050 to the extent it depicts:

(i)(A) Any areas of a medical facility, counseling, or therapeutic program office where:

(I) A patient is registered to receive treatment, receiving treatment, waiting for treatment, or being transported in the course of treatment; or

(II) Health care information is shared with patients, their families, or among the care team; or

(B) Information that meets the definition of protected health information for purposes of the health insurance portability and accountability act of 1996 or health care information for purposes of chapter 70.02 RCW;

(ii) The interior of a place of residence where a person has a reasonable expectation of privacy;

(iii) An intimate image as defined in RCW 9A.86.010;

(iv) A minor;

(v) The body of a deceased person;

(vi) The identity of or communications from a victim or witness of an incident involving domestic violence as defined in RCW 10.99.020 or sexual assault as defined in RCW 70.125.030, or disclosure of intimate images as defined in RCW 9A.86.010. If at the time of recording the victim or witness indicates a desire for disclosure or nondisclosure of the recorded identity or communications, such desire shall govern; or

(vii) The identifiable location information of a community-based domestic violence program as defined in RCW 70.123.020, or emergency shelter as defined in RCW 70.123.020.

(b) The presumptions set out in (a) of this subsection may be rebutted by specific evidence in individual cases.

(c) In a court action seeking the right to inspect or copy a body worn camera recording, a person who prevails against a law enforcement or corrections agency that withholds or discloses all or part of a body worn camera recording pursuant to (a) of this subsection is not entitled to fees, costs, or awards pursuant to RCW 42.56.550 unless it is shown that the law enforcement or corrections agency acted in bad faith or with gross negligence.

(d) A request for body worn camera recordings must:

(i) Specifically identify a name of a person or persons involved in the incident;

(ii) Provide the incident or case number;

(iii) Provide the date, time, and location of the incident or incidents; or

(iv) Identify a law enforcement or corrections officer involved in the incident or incidents.

(e)(i) A person directly involved in an incident recorded by the requested body worn camera recording, an attorney representing a person directly involved in an incident recorded by the requested body worn camera recording, a person or his or her attorney who requests a body worn camera recording relevant to a criminal case involving that person, or the executive director from either the Washington state commission on African-American affairs, Asian Pacific American affairs, or Hispanic affairs, has the right to obtain the body worn camera recording, subject to any exemption under this chapter or any applicable law. In addition, an attorney who represents a person regarding a potential or existing civil cause of action involving the denial of civil rights under the federal or state Constitution, or a violation of a United States department of justice settlement agreement, has the right to obtain the body worn camera recording if relevant to the cause of action, subject to any exemption under this chapter or any applicable law. The attorney must explain the relevancy of the requested body worn camera recording to the cause of action and specify that he or she is seeking relief from redaction costs under this subsection (14)(e).

(ii) A law enforcement or corrections agency responding to requests under this subsection (14)(e) may not require the requesting individual to pay costs of any redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of a body worn camera recording.

(iii) A law enforcement or corrections agency may require any person requesting a body worn camera recording pursuant to this subsection (14)(e) to identify himself or herself to ensure he or she is a person entitled to obtain the body worn camera recording under this subsection (14)(e).

(f)(i) A law enforcement or corrections agency responding to a request to disclose body worn camera recordings may require any requester not listed in (e) of this subsection to pay the reasonable costs of redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of the body worn camera recording prior to disclosure only to the extent necessary to comply with the exemptions in this chapter or any applicable law.

(ii) An agency that charges redaction costs under this subsection (14)(f) must use redaction technology that provides the least costly commercially available method of redacting body worn camera recordings, to the extent possible and reasonable.

(iii) In any case where an agency charges a requestor for the costs of redacting a body worn camera recording under this subsection (14)(f), the time spent on redaction of the recording shall not count towards the agency's allocation of, or limitation on, time or costs spent responding to public records requests under this chapter, as established pursuant to local ordinance, policy, procedure, or state law.

(g) For purposes of this subsection (14):

(i) "Body worn camera recording" means a video and/or sound recording that is made by a body worn camera attached to the uniform or eyewear of a law enforcement or corrections officer from a covered jurisdiction while in the course of his or her official duties and that is made on or after the effective date of this section and prior to July 1, 2019; and

(ii) "Covered jurisdiction" means any jurisdiction that has deployed body worn cameras as of the effective date of this section, regardless of whether or not body worn cameras are being deployed in the jurisdiction on the effective date of this section, including, but not limited to, jurisdictions that have deployed body worn cameras on a pilot basis.

(h) Nothing in this subsection shall be construed to restrict access to body worn camera recordings as otherwise permitted by law for official or recognized civilian and accountability bodies or pursuant to any court order.

(i) Nothing in this section is intended to modify the obligations of prosecuting attorneys and law enforcement under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v. Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and the relevant Washington court criminal rules and statutes.

(j) A law enforcement or corrections agency must retain body worn camera recordings for at least sixty days and thereafter may destroy the records.

Sec. 3. RCW 42.56.080 and 2005 c 483 s 1 and 2005 c 274 s 285 are each reenacted and amended to read as follows:

Public records shall be available for inspection and copying, and agencies shall, upon request for identifiable public records, make them promptly available to any person including, if applicable, on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure. Agencies shall not deny a request for identifiable public records solely on the basis that the request is overbroad. Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.56.070(9) or 42.56.240(14), or other statute which exempts or prohibits disclosure of specific information or records to certain persons. Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency. Agencies shall honor requests received by mail for identifiable public records unless exempted by provisions of this chapter.

Sec. 4. RCW 42.56.120 and 2005 c 483 s 2 are each amended to read as follows:

No fee shall be charged for the inspection of public records((~~. No fee shall be charged for~~)) or locating public documents and making them available for copying, except as provided in RCW 42.56.240(14). A reasonable charge may be imposed for providing copies of public records and for the use by any person of agency equipment or equipment of the office of the secretary of the senate or the office of the chief clerk of the house of representatives to copy public records, which charges shall not exceed the amount necessary to reimburse the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives for its actual costs directly incident to such copying.

Agency charges for photocopies shall be imposed in accordance with the actual per page cost or other costs established and published by the agency. In no event may an agency charge a per page cost greater than the actual per page cost as established and published by the agency. To the extent the agency has not determined the actual per page cost for photocopies of public records, the agency may not charge in excess of fifteen cents per page. An agency may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request. If an agency makes a request available on a partial or installment basis, the agency may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the agency is not obligated to fulfill the balance of the request.

NEW SECTION. **Sec. 5.** (1) A law enforcement or corrections agency that deploys body worn cameras must establish policies regarding the use of the cameras. The policies must, at a minimum, address:

(a) When a body worn camera must be activated and deactivated, and when a law enforcement or corrections officer has the discretion to activate and deactivate the body worn camera;

(b) How a law enforcement or corrections officer is to respond to circumstances when it would be reasonably anticipated that a person may be unwilling or less willing to communicate with an officer who is recording the communication with a body worn camera;

(c) How a law enforcement or corrections officer will document when and why a body worn camera was deactivated prior to the conclusion of an interaction with a member of the public while conducting official law enforcement or corrections business;

(d) How, and under what circumstances, a law enforcement or corrections officer is to inform a member of the public that he or she is being recorded, including in situations where the person is a non-English speaker or has limited English proficiency, or where the person is deaf or hard of hearing;

(e) How officers are to be trained on body worn camera usage and how frequently the training is to be reviewed or renewed; and

(f) Security rules to protect data collected and stored from body worn cameras.

(2) A law enforcement or corrections agency that deploys body worn cameras before the effective date of this section must establish the policies within one hundred twenty days of the effective date of this section. A law enforcement or corrections agency that deploys body worn cameras on or after the effective date of this section must establish the policies before deploying body worn cameras.

(3) This section expires July 1, 2019.

NEW SECTION. **Sec. 6.** For a city or town that is not deploying body worn cameras on the effective date of this section, a legislative authority of a city or town is strongly encouraged to adopt an ordinance or resolution authorizing the use of body worn cameras prior to their use by law enforcement or a corrections agency. Any ordinance or resolution authorizing the use of body worn cameras should identify a community involvement process for providing input into the development of operational policies governing the use of body worn cameras.

NEW SECTION. **Sec. 7.** (1) The legislature shall convene a task force with the following voting members to examine the use of body worn cameras by law enforcement and corrections agencies:

(a) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(b) One member from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house of representatives;

(c) A representative from the governor's office;

(d) Two representatives from the Washington association of prosecuting attorneys;

(e) A representative from the Washington defender association;

(f) A representative of the Washington association of criminal defense lawyers;

(g) A representative from the American civil liberties union of Washington;

(h) A representative from the Washington association of sheriffs and police chiefs;

(i) Four chief local law enforcement officers, at least two of whom must be from local law enforcement agencies that have deployed body worn cameras, appointed jointly by the president of the senate and the speaker of the house of representatives;

(j) Three law enforcement officers, one representing the council of metropolitan police and sheriffs and two representing the Washington council of police and sheriffs;

(k) Two representatives of local governments responsible for oversight of law enforcement, appointed jointly by the president of the senate and the speaker of the house of representatives;

(l) A representative from the Washington coalition for open government;

(m) A representative of the news media, appointed jointly by the president of the senate and the speaker of the house of representatives;

(n) A representative of victims advocacy groups, appointed jointly by the president of the senate and the speaker of the house of representatives;

(o) Two representatives with experience in interactions between law enforcement and the public, appointed by the Washington state commission on African-American affairs;

(p) Two representatives with experience in interactions between law enforcement and the public, appointed by the Washington state commission on Asian Pacific American affairs;

(q) Two representatives with experience in interactions between law enforcement and the public, appointed by the Washington state commission on Hispanic affairs;

(r) One representative of immigrant or refugee communities, appointed jointly by the president of the senate and the speaker of the house of representatives;

(s) One person with expertise in the technology of retaining and redacting body worn camera recordings, appointed jointly by the president of the senate and the speaker of the house of representatives;

(t) Two representatives of the tribal communities with experience in interactions between law enforcement and the public, appointed jointly by the president of the senate and the speaker of the house of representatives;

(u) A public member, appointed jointly by the president of the senate and the speaker of the house of representatives; and

(v) A representative of the Washington state fraternal order of police.

(2) The task force shall choose two cochairs from among its legislative members.

(3) The task force may request such information, recordings, and other records from agencies as the task force deems appropriate for it to effectuate this section. A participating agency must provide such information, recordings, or records upon request subject to exemptions under chapter 42.56 RCW or any applicable law.

(4) Staff support for the task force shall be provided by the senate committee services and the house of representatives office of program research.

(5) Legislative members of the task force may be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer, governmental entity, or other organization, are entitled to be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(6) The expenses of the task force shall 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 executive rules committee, or their successor committees.

(7) The task force shall hold public meetings in locations that include rural and urban communities and communities in the eastern and western parts of the state.

(8) The task force shall specifically consider and report on the use of body worn cameras in health care facilities subject to the health insurance portability and accountability act of 1996, P.L. 104-191, and the uniform health care information act, chapter 70.02 RCW. The task force shall consult with subject matter experts, including, but not limited to, the Washington state hospital association and the Washington state medical association, and any findings or recommendations must be consistent with the obligations of health care facilities under both federal and state law.

(9) The task force shall report its findings and recommendations to the governor and the appropriate committees of the legislature by December 1, 2017. The report must include, but is not limited to, findings and recommendations regarding costs assessed to requesters, policies adopted by agencies, retention and retrieval of data, model policies regarding body worn cameras that at a minimum address the issues identified in section 5 of this act, and the use of body worn cameras for gathering evidence, surveillance, and police accountability. The task force must allow a minority report to be included with the task force report if requested by a member of the task force.

(10) This section expires June 1, 2019.

NEW SECTION. **Sec. 8.** (1) For state and local agencies, a body worn camera may only be used by officers employed by a general authority Washington law enforcement agency as defined in RCW 10.93.020, any officer employed by the department of corrections, and personnel for jails as defined in RCW 70.48.020 and detention facilities as defined in RCW 13.40.020.

(2) This section expires July 1, 2019.

NEW SECTION. **Sec. 9.** Sections 5, 6, and 8 of this act constitute a new chapter in Title 10 RCW.

Passed by the House March 8, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 164

[Engrossed Second Substitute House Bill 2375]
COMPUTER CRIMES

AN ACT Relating to cybercrime; amending RCW 9.94A.515; reenacting and amending RCW 9A.52.010; adding a new chapter to Title 9A RCW; creating new sections; repealing RCW 9A.52.110, 9A.52.120, and 9A.52.130; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** The legislature finds that the rapid pace of technological change and information computerization in the digital age generates a never ending sequence of anxiety inducing reports highlighting how the latest device or innovation is being used to harm consumers. The legislature finds that this generates an ongoing pattern of legislation being proposed to regulate each new technology. The legislature finds that a more systemic approach is needed to better protect consumers and address these rapidly advancing technologies. The legislature finds that the application of traditional criminal enforcement measures that apply long-standing concepts of trespass, fraud, and theft to activities in the electronic frontier has not provided the essential clarity, certainty, and predictability that regulators, entrepreneurs, and innovators need. The legislature finds that an integrated, comprehensive methodology, rather than a piecemeal approach, will provide significant economic development benefits by providing certainty to the innovation community about the actions and activities that are prohibited. Therefore, the legislature intends to create a new chapter of crimes to the criminal code to punish and deter misuse or abuse of technology, rather than the perceived threats of individual technologies. This new chapter of crimes has been developed from an existing and proven system of computer security threat modeling known as the STRIDE system.

The legislature intends to strike a balance between public safety and civil liberties in the digital world, including creating sufficient space for white hat security research and whistleblowers. The state whistleblower and public record laws prevent this act from being used to hide any deleterious actions by government officials under the guise of security. Furthermore, this act is not intended to criminalize activity solely on the basis that it violates any terms of service.

The purpose of the Washington cybercrime act is to provide prosecutors the twenty-first century tools they need to combat twenty-first century crimes.

NEW SECTION. **Sec. 2.** This act may be known and cited as the Washington cybercrime act.

NEW SECTION. **Sec. 3.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Access" means to gain entry to, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of electronic data, data network, or data system, including via electronic means.

(2) "Cybercrime" includes crimes of this chapter.

(3) "Data" means a digital representation of information, knowledge, facts, concepts, data software, data programs, or instructions that are being prepared or have been prepared in a formalized manner and are intended for use in a data network, data program, data services, or data system.

(4) "Data network" means any system that provides digital communications between one or more data systems or other digital input/output devices including, but not limited to, display terminals, remote systems, mobile devices, and printers.

(5) "Data program" means an ordered set of electronic data representing coded instructions or statements that when executed by a computer causes the device to process electronic data.

(6) "Data services" includes data processing, storage functions, internet services, email services, electronic message services, web site access, internet-based electronic gaming services, and other similar system, network, or internet-based services.

(7) "Data system" means an electronic device or collection of electronic devices, including support devices one or more of which contain data programs, input data, and output data, and that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control. This term does not include calculators that are not programmable and incapable of being used in conjunction with external files.

(8) "Identifying information" means information that, alone or in combination, is linked or linkable to a trusted entity that would be reasonably expected to request or provide credentials to access a targeted data system or network. It includes, but is not limited to, recognizable names, addresses, telephone numbers, logos, HTML links, email addresses, registered domain names, reserved IP addresses, usernames, social media profiles, cryptographic keys, and biometric identifiers.

(9) "Malware" means any set of data instructions that are designed, without authorization and with malicious intent, to disrupt computer operations, gather sensitive information, or gain access to private computer systems. "Malware" does not include software that installs security updates, removes malware, or causes unintentional harm due to some deficiency. It includes, but is not limited to, a group of data instructions commonly called viruses or worms, that are self-replicating or self-propagating and are designed to infect other data programs or data, consume data resources, modify, destroy, record, or transmit data, or in some other fashion usurp the normal operation of the data, data system, or data network.

(10) "White hat security research" means accessing a data program, service, or system solely for purposes of good faith testing, investigation, identification, and/or correction of a security flaw or vulnerability, where such activity is carried out, and where the information derived from the activity is used, primarily to promote security or safety.

(11) "Without authorization" means to knowingly circumvent technological access barriers to a data system in order to obtain information without the

express or implied permission of the owner, where such technological access measures are specifically designed to exclude or prevent unauthorized individuals from obtaining such information, but does not include white hat security research or circumventing a technological measure that does not effectively control access to a computer. The term "without the express or implied permission" does not include access in violation of a duty, agreement, or contractual obligation, such as an acceptable use policy or terms of service agreement, with an internet service provider, internet web site, or employer. The term "circumvent technological access barriers" may include unauthorized elevation of privileges, such as allowing a normal user to execute code as administrator, or allowing a remote person without any privileges to run code.

NEW SECTION. **Sec. 4.** (1) A person is guilty of computer trespass in the first degree if the person, without authorization, intentionally gains access to a computer system or electronic database of another; and

(a) The access is made with the intent to commit another crime in violation of a state law not included in this chapter; or

(b) The violation involves a computer or database maintained by a government agency.

(2) Computer trespass in the first degree is a class C felony.

NEW SECTION. **Sec. 5.** (1) A person is guilty of computer trespass in the second degree if the person, without authorization, intentionally gains access to a computer system or electronic database of another under circumstances not constituting the offense in the first degree.

(2) Computer trespass in the second degree is a gross misdemeanor.

NEW SECTION. **Sec. 6.** (1) A person is guilty of electronic data service interference if the person maliciously and without authorization causes the transmission of data, data program, or other electronic command that intentionally interrupts or suspends access to or use of a data network or data service.

(2) Electronic data service interference is a class C felony.

NEW SECTION. **Sec. 7.** (1) A person is guilty of spoofing if he or she, without authorization, knowingly initiates the transmission, display, or receipt of the identifying information of another organization or person for the purpose of gaining unauthorized access to electronic data, a data system, or a data network, and with the intent to commit another crime in violation of a state law not included in this chapter.

(2) Spoofing is a gross misdemeanor.

NEW SECTION. **Sec. 8.** (1) A person is guilty of electronic data tampering in the first degree if he or she maliciously and without authorization:

(a)(i) Alters data as it transmits between two data systems over an open or unsecure network; or

(ii) Introduces any malware into any electronic data, data system, or data network; and

(b)(i) Doing so is for the purpose of devising or executing any scheme to defraud, deceive, or extort, or commit any other crime in violation of a state law not included in this chapter, or of wrongfully controlling, gaining access to, or obtaining money, property, or electronic data; or

(ii) The electronic data, data system, or data network is maintained by a governmental agency.

(2) Electronic data tampering in the first degree is a class C felony.

NEW SECTION. **Sec. 9.** (1) A person is guilty of electronic data tampering in the second degree if he or she maliciously and without authorization:

(a) Alters data as it transmits between two data systems over an open or unsecure network under circumstances not constituting the offense in the first degree; or

(b) Introduces any malware into any electronic data, data system, or data network under circumstances not constituting the offense in the first degree.

(2) Electronic data tampering in the second degree is a gross misdemeanor.

NEW SECTION. **Sec. 10.** (1) A person is guilty of electronic data theft if he or she intentionally, without authorization, and without reasonable grounds to believe that he or she has such authorization, obtains any electronic data with the intent to:

(a) Devise or execute any scheme to defraud, deceive, extort, or commit any other crime in violation of a state law not included in this chapter; or

(b) Wrongfully control, gain access to, or obtain money, property, or electronic data.

(2) Electronic data theft is a class C felony.

NEW SECTION. **Sec. 11.** A person who, in the commission of a crime under this chapter, commits any other crime may be punished for that other crime as well as for the crime under this chapter and may be prosecuted for each crime separately.

Sec. 12. RCW 9A.52.010 and 2011 c 336 s 369 are each reenacted and amended to read as follows:

The following definitions apply in this chapter:

(1) ((~~"Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, directly or by electronic means.~~

~~(2) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.~~

~~(3) "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being prepared or have been prepared in a formalized manner and are intended for use in a computer.~~

~~(4)~~)) "Enter." The word "enter" when constituting an element or part of a crime, shall include the entrance of the person, or the insertion of any part of his or her body, or any instrument or weapon held in his or her hand and used or intended to be used to threaten or intimidate a person or to detach or remove property((~~;~~)).

((~~(5)~~)) (2) "Enters or remains unlawfully." A person "enters or remains unlawfully" in or upon premises when he or she is not then licensed, invited, or otherwise privileged to so enter or remain.

A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon

unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him or her by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner. Land that is used for commercial aquaculture or for growing an agricultural crop or crops, other than timber, is not unimproved and apparently unused land if a crop or any other sign of cultivation is clearly visible or if notice is given by posting in a conspicuous manner. Similarly, a field fenced in any manner is not unimproved and apparently unused land. A license or privilege to enter or remain on improved and apparently used land that is open to the public at particular times, which is neither fenced nor otherwise enclosed in a manner to exclude intruders, is not a license or privilege to enter or remain on the land at other times if notice of prohibited times of entry is posted in a conspicuous manner.

((~~(6)~~)) (3) "Premises" includes any building, dwelling, structure used for commercial aquaculture, or any real property.

Sec. 13. RCW 9.94A.515 and 2015 c 261 s 11 are each 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(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~~)) section 4 of this act)

Counterfeiting (RCW 9.16.035(3))

Electronic Data Service Interference (section 6 of this act)

Electronic Data Tampering 1 (section 8 of this act)

Electronic Data Theft (section 10 of this act)

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, or Loaned Property (valued at ((~~one~~)) five 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, or Loaned Property (valued at ((~~two~~)) seven hundred fifty dollars or more but less than ((~~one~~)) five 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 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))

NEW SECTION. **Sec. 14.** The following acts or parts of acts are each repealed:

(1) RCW 9A.52.110 (Computer trespass in the first degree) and 1984 c 273 s 1;

(2) RCW 9A.52.120 (Computer trespass in the second degree) and 1984 c 273 s 2; and

(3) RCW 9A.52.130 (Computer trespass—Commission of other crime) and 1984 c 273 s 3.

NEW SECTION. **Sec. 15.** Sections 3 through 11 of this act constitute a new chapter in Title 9A RCW.

Passed by the House March 7, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 165

[Engrossed House Bill 2400]

STEEL SLAG--SOLID WASTE MANAGEMENT REQUIREMENTS--EXEMPTION

AN ACT Relating to clarifying that the provisions of chapter 70.95 RCW do not apply to steel slag that is a product of production in the electric arc steel-making process and is managed as an item of commercial value and placed in commerce; and adding a new section to chapter 70.95 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 70.95 RCW to read as follows:

Nothing in this chapter is applicable to steel slag that is a primary product of production in the electric arc steel-making process, produced to specification, managed as an item of commercial value, and placed in commerce for general public consumption, provided that such steel slag material is not abandoned, discarded, or placed in the solid waste stream.

Passed by the House February 11, 2016.
Passed by the Senate March 1, 2016.

Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 166

[Substitute House Bill 2440]

HOST HOME PROGRAMS--LICENSING--EXEMPTION

AN ACT Relating to host home programs for youth; amending RCW 74.15.020 and 26.44.030; adding a new section to chapter 24.03 RCW; and creating a new section.

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

Sec. 1. RCW 74.15.020 and 2013 c 105 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter and RCW 74.13.031 unless the context clearly requires otherwise.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers, or persons with developmental disabilities for services rendered:

(a) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(b) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility;

(c) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036;

(d) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW;

(e) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(f) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(g) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

(h) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(i) "Resource and assessment center" means an agency that provides short-term emergency and crisis care for a period up to seventy-two hours, excluding Saturdays, Sundays, and holidays to children who have been removed from their parent's or guardian's care by child protective services or law enforcement;

(j) "Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;

(k) "Service provider" means the entity that operates a community facility.

(2) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection (2), even after the marriage is terminated;

(v) Relatives, as named in (a)(i), (ii), (iii), or (iv) of this subsection (2), of any half sibling of the child; or

(vi) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;

(d) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

(e) A person, partnership, corporation, or other entity that provides placement or similar services to international children who have entered the country by obtaining visas that meet the criteria for medical care as established by the United States citizenship and immigration services, or persons who have the care of such an international child in their home;

(f) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(g) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and assisted living facilities licensed under chapter 18.20 RCW;

(h) Licensed physicians or lawyers;

(i) Facilities approved and certified under chapter 71A.22 RCW;

(j) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(k) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(l) An agency operated by any unit of local, state, or federal government or an agency licensed by an Indian tribe pursuant to RCW 74.15.190;

(m) A maximum or medium security program for juvenile offenders operated by or under contract with the department;

(n) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(o) A host home program, and host home, operated by a tax exempt organization for youth not in the care of or receiving services from the department, if that program: (i) Recruits and screens potential homes in the program, including performing background checks on individuals over the age of eighteen residing in the home through the Washington state patrol or equivalent law enforcement agency and performing physical inspections of the home; (ii) screens and provides case management services to youth in the program; (iii) obtains a notarized permission slip or limited power of attorney from the parent or legal guardian of the youth authorizing the youth to participate in the program and the authorization is updated every six months when a youth remains in a host home longer than six months; (iv) obtains

insurance for the program through an insurance provider authorized under Title 48 RCW; (v) provides mandatory reporter and confidentiality training; and (vi) registers with the secretary of state as provided in section 3 of this act. A host home is a private home that volunteers to host youth in need of temporary placement that is associated with a host home program. Any host home program that receives local, state, or government funding shall report the following information to the office of homeless youth prevention and protection programs annually by December 1st of each year: The number of children the program served, why the child was placed with a host home, and where the child went after leaving the host home, including but not limited to returning to the parents, running away, reaching the age of majority, or becoming a dependent of the state. A host home program shall not receive more than one hundred thousand dollars per year of public funding, including local, state, and federal funding. A host home shall not receive any local, state, or government funding.

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

(4) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(5) "Performance-based contracts" or "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 may also include provisions that link the performance of the contractor to the level and timing of the reimbursement.

(6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(7) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(8) "Secretary" means the secretary of social and health services.

(9) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

(10) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has entered into a performance-based contract with the department to provide child welfare services.

(11) "Transitional living services" means at a minimum, to the extent funds are available, the following:

(a) Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;

(b) Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;

(c) Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;

(d) Individual and group counseling; and

(e) Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and training administration programs including the workforce investment act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

NEW SECTION. **Sec. 2.** By July 1, 2017, the department of commerce must report to the governor and the legislature recommendations and best practices for host home programs.

NEW SECTION. **Sec. 3.** A new section is added to chapter 24.03 RCW to read as follows:

(1) Host home programs have the same meaning as described in RCW 74.15.020.

(2) Host home programs shall register with the secretary of state's office. This registration may occur when the host home program files articles of incorporation or registers as a nonprofit organization under this chapter.

(3) The host home program registration must include a notarized statement by the host home program that it meets all of the statutory requirements as provided for in RCW 74.15.020.

(4) The secretary of state has no duty to confirm that a host home program is meeting its statutory requirements.

(5) Any filing under this section does not imply an endorsement by the secretary of state.

(6) The secretary of state may adopt rules as necessary to carry out its duties under this section.

Sec. 4. RCW 26.44.030 and 2015 1st sp.s. c 6 s 1 are each 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, or host home program 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((~~,~~)) and 13((~~,~~)) RCW and ((~~26 RCW~~)) this title, 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 House March 10, 2016.
Passed by the Senate March 10, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 167

[Substitute House Bill 2443]

CONVERSION VENDING AND MEDICAL UNITS--DEPARTMENT OF LABOR AND INDUSTRIES PLAN REVIEW--EXEMPTION

AN ACT Relating to the compliance of certain conversion vending units and medical units with certain department of labor and industries requirements; amending RCW 43.22.380, 43.22.360, and 43.22.335; creating a new section; and providing an expiration date.

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

Sec. 1. RCW 43.22.380 and 1999 c 22 s 6 are each amended to read as follows:

Used mobile homes, commercial coaches, ((~~conversion vending units, medical units,~~)) recreational vehicles, and/or park trailers manufactured for use outside this state which do not meet the requirements prescribed and have been used for six months or more will not be required to comply with those requirements except for alterations or installations referred to in RCW 43.22.360.

Sec. 2. RCW 43.22.360 and 1999 c 22 s 4 are each amended to read as follows:

(1) Plans and specifications of each model or production prototype of a mobile home, commercial coach, conversion vending units as specified in subsection (2) of this section, medical units, recreational vehicle, and/or park

trailer showing body and frame design, construction, plumbing, heating and electrical specifications and data shall be submitted to the department of labor and industries for approval and recommendations with respect to compliance with the rules and standards of each of such agencies. When plans have been submitted and approved as required, no changes or alterations shall be made to body and frame design, construction, plumbing, heating or electrical installations or specifications shown thereon in any mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, or park trailer without prior written approval of the department of labor and industries.

(2)(a) Conversion vending units with any of the following components are subject to the requirements of subsection (1) of this section unless exempted by the department by rule after consultation with the advisory committee created in section 4 of this act:

(i) Have concentrated loads exceeding five hundred pounds;

(ii) Contain fuel gas piping systems and equipment;

(iii) Contain solid fuel burning equipment;

(iv) Contain fire suppression systems;

(v) Contain commercial hoods;

(vi) Contain electrical systems and equipment in excess of 30A/120V;

(vii) Contain electrical systems with more than five circuits;

(viii) Contain electrical systems incorporating photovoltaic energy, fuel cell energy, or other alternative energy systems; or

(ix) Contain plumbing drainage systems conveying solid or bodily waste.

(b) Professional engineer or architect approval is only required for conversion vending units that have concentrated loads exceeding five hundred pounds.

(c) Plan review is not required for those systems and other items listed in (a) of this subsection, or as modified by rule, that are already inspected and approved by another jurisdiction either to a common recognized standard or to standards substantially equivalent to Washington state. An insignia or certified inspection record from the inspecting jurisdiction will suffice as evidence of prior plan review approval.

(3) The director may adopt rules that provide for approval of a plan that is certified as meeting state requirements or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements.

Sec. 3. RCW 43.22.335 and 2002 c 268 s 9 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.22.340 through 43.22.434, 43.22.442, and 43.22.495.

(1) "Conversion ((~~vendor~~)) vending units" means a motor vehicle or recreational vehicle that has been converted or built for the purpose of being used for commercial sales at temporary locations. The units must be less than eight feet six inches wide in the set-up position and the inside working area must be less than forty feet in length.

(2) "Indigent" means a person receiving an annual income, after taxes, of one hundred twenty-five percent or less of the current federally established poverty level.

(3) "Manufactured home" means a single-family dwelling required to be built in accordance with regulations adopted under the national manufactured housing construction and safety standards act of 1974 (42 U.S.C. 5401 et seq.).

(4) "Medical unit" means a self-propelled unit used to provide medical examinations, treatments, and medical and dental services or procedures, not including emergency response vehicles.

(5) "Mobile home" means a factory-built dwelling built before June 15, 1976, to standards other than the national manufactured housing construction and safety standards act of 1974 (42 U.S.C. 5401 et seq.), and acceptable under applicable state codes in effect at the time of construction or introduction of the home into this state.

(6) "Park trailer" means a park trailer as defined in the American national standards institute A119.5 standard for park trailers.

(7) "Recreational vehicle" means a vehicular-type unit primarily designed for recreational camping or travel use that has its own motive power or is mounted on or towed by another vehicle. The units include travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, and motor homes.

NEW SECTION. **Sec. 4.** By July 1, 2016, the department of labor and industries shall convene an advisory committee to identify any additional conversion vending units to exempt from plan review under RCW 43.22.360(1). The advisory committee must include one representative from each of the following: The factory assembled structures advisory board, the state fire marshal or the state fire marshal's designee, a statewide association of local public health officials, a statewide association of local building officials, a statewide association of restaurants, a statewide association of cities, and a statewide association of county fairs. The advisory committee must also include at least one representative, but no more than two representatives, from each of the following: An association or associations representing food truck vendors, and manufacturers of conversion vending units. The representatives from a statewide association of local public health officials and a statewide association of county fairs must be ex officio nonvoting members. The advisory committee may also recommend to the legislature additional statutory changes necessary to implement its recommendations. The department shall report to the relevant committees of the legislature by September 30, 2017, if statutory changes are recommended. This section expires December 1, 2017.

Passed by the House February 17, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 168

[House Bill 2444]

WORKER AND COMMUNITY RIGHT TO KNOW FUND--CLASSIFICATION SYSTEM

AN ACT Relating to eliminating the reference to the standard industrial classification system in the worker and community right to know fund; and amending RCW 49.70.170.

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

Sec. 1. RCW 49.70.170 and 2010 c 8 s 12068 are each amended to read as follows:

(1) The worker and community right to know fund is hereby established in the custody of the state treasurer. The department shall deposit all moneys received under this chapter in the fund. Moneys in the fund may be spent only for the purposes of this chapter following legislative appropriation. Disbursements from the fund shall be on authorization of the director or the director's designee. ((~~During the 2003-2005 fiscal biennium, moneys in the fund may also be used by the military department for the purpose of assisting the state emergency response commission and coordinating local emergency planning activities.~~)) The fund is subject to the allotment procedure provided under chapter 43.88 RCW.

(2) The department shall assess each employer who reported ten thousand four hundred or more worker hours in the prior calendar year an annual fee to provide for the implementation of this chapter. The department shall ((~~promulgate~~)) adopt rules establishing a fee schedule for all employers who reported ten thousand four hundred or more worker hours in the prior calendar year and are engaged in business operations ((~~having a standard industrial classification, as designated in the standard industrial classification manual prepared by the federal office of management and budget, within major group numbers 01 through 08 (agriculture and forestry industries), numbers 10 through 14 (mining industries), numbers 15 through 17 (construction industries), numbers 20 through 39 (manufacturing industries), numbers 41, 42, and 44 through 49 (transportation, communications, electric, gas, and sanitary services), number 75 (automotive repair, services, and garages), number 76 (miscellaneous repair services), number 80 (health services), and number 82 (educational services)~~)) in the following industries, as classified by the current industry classification system used by the bureau of labor statistics: Agriculture and forestry industries; mining, quarrying, and oil and gas extraction; construction industries; manufacturing industries; transportation, pipeline, communications, electric, gas, and sanitary services; automotive repair, services, and garages; miscellaneous repair services; health services; and educational services. The department shall establish the annual fee for each employer who reported ten thousand four hundred or more worker hours in the prior calendar year in industries identified by this section, provided that fees assessed shall not be more than two dollars and fifty cents per full time equivalent employee. The annual fee shall not exceed fifty thousand dollars. The fees shall be collected solely from employers whose industries have been identified by rule under this chapter. The department shall ((~~promulgate~~)) adopt rules allowing employers who do not have hazardous substances at their workplace to request an exemption from the assessment and shall establish penalties for fraudulent exemption requests. All fees collected by the department pursuant to this section shall be collected in a cost-efficient manner and shall be deposited in the fund.

(3) Records required by this chapter shall at all times be open to the inspection of the director, or his or her designee including, the traveling auditors, agents, or assistants of the department provided for in RCW 51.16.070 and 51.48.040. The information obtained from employer records under the provisions of this section shall be subject to the same confidentiality requirements as set forth in RCW 51.16.070.

(4) An employer may appeal the assessment of the fee or penalties pursuant to the procedures set forth in Title 51 RCW and accompanying rules except that the employer shall not have the right of appeal to superior court as provided in Title 51 RCW. The employer from whom the fee or penalty is demanded or enforced, may however, within thirty days of the board of industrial insurance appeal's final order, pay the fee or penalty under written protest setting forth all the grounds upon which such fee or penalty is claimed to be unlawful, excessive, or otherwise improper and thereafter bring an action in superior court against the department to recover such fee or penalty or any portion of the fee or penalty which was paid under protest.

(5) Repayment shall be made to the general fund of any moneys appropriated by law in order to implement this chapter.

Passed by the House February 17, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 169

[Engrossed Substitute House Bill 2511]

CHILD CARE CENTERS--5 YEAR OLD CHILDREN--SCHOOL ENROLLMENT STATUS

AN ACT Relating to child care center licensing requirements; amending RCW 43.215.010; adding a new section to chapter 43.215 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 the high cost of quality child care places a heavy burden on Washington's poorest families. The legislature further acknowledges the administrative burden unnecessary regulations place on child care providers and the families they serve. The legislature finds that under current rule, child care providers may not serve five year olds attending school in the same group as five year olds not attending school.

(2) The legislature intends to allow child care centers to serve kindergartners in a mixed group or classroom without having to go through a waiver process. The legislature further intends to streamline the delivery of services to children while continuing to protect their safety and well-being.

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

For children ages sixty months through six years, the child's school enrollment status may not be used as a reason to require the child be placed within a specific mixed-age group. Nothing in this section changes or requires the department to change the staff-to-child ratio requirements for mixed-age groups that include children who are ages thirty months through six years.

Sec. 3. RCW 43.215.010 and 2015 3rd sp.s. c 7 s 19 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 any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's

own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides early childhood education and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child care provider who regularly provides early childhood education and early learning services for not more than twelve children in the provider's home in the family living quarters;

(d) "Nongovernmental private-public partnership" means an entity registered as a nonprofit corporation in Washington state with a primary focus on early learning, school readiness, and parental support, and an ability to raise a minimum of five million dollars in contributions;

(e) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection, even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools that are engaged primarily in early childhood education with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children, and do not accept custody of children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing child care for periods of less than twenty-four hours when a parent or legal guardian of the child remains on the premises of the facility for the purpose of participating in:

(i) Activities other than employment; or

(ii) Employment of up to two hours per day when the facility is operated by a nonprofit entity that also operates a licensed child care program at the same facility in another location or at another facility;

(i) Any entity that provides recreational or educational programming for school-age children only and the entity meets all of the following requirements:

(i) The entity utilizes a drop-in model for programming, where children are able to attend during any or all program hours without a formal reservation;

(ii) The entity does not assume responsibility in lieu of the parent, unless for coordinated transportation;

(iii) The entity is a local affiliate of a national nonprofit; and

(iv) The entity is in compliance with all safety and quality standards set by the associated national agency;

(j) A program operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(k) A program located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(l) A program that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Applicant" means a person who requests or seeks employment in an agency.

(4) "Conviction information" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the applicant.

(5) "Department" means the department of early learning.

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

(7) "Early achievers" means a program that improves the quality of early learning programs and supports and rewards providers for their participation.

(8) "Early childhood education and assistance program contractor" means an organization that provides early childhood education and assistance program services under a signed contract with the department.

(9) "Early childhood education and assistance program provider" means an organization that provides site level, direct, and high quality early childhood education and assistance program services under the direction of an early childhood education and assistance program contractor.

(10) "Early start" means an integrated high quality continuum of early learning programs for children birth-to-five years of age. Components of early start include, but are not limited to, the following:

(a) Home visiting and parent education and support programs;

(b) The early achievers program described in RCW 43.215.100;

(c) Integrated full-day and part-day high quality early learning programs; and

(d) High quality preschool for children whose family income is at or below one hundred ten percent of the federal poverty level.

(11) "Education data center" means the education data center established in RCW 43.41.400, commonly referred to as the education research and data center.

(12) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.

(13) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW 43.215.300(3).

(14) "Extended day program" means an early childhood education and assistance program that offers early learning education for at least ten hours per day, a minimum of two thousand hours per year, at least four days per week, and operates year-round.

(15) "Full day program" means an early childhood education and assistance program that offers early learning education for a minimum of one thousand hours per year.

(16) "Low-income child care provider" means a person who administers a child care program that consists of at least eighty percent of children receiving working connections child care subsidy.

(17) "Low-income neighborhood" means a district or community where more than twenty percent of households are below the federal poverty level.

(18) "Negative action" means a court order, court judgment, or an adverse action taken by an agency, in any state, federal, tribal, or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability, and competence to care for or have unsupervised access to children in child care. This may include, but is not limited to:

(a) A decision issued by an administrative law judge;

(b) A final determination, decision, or finding made by an agency following an investigation;

(c) An adverse agency action, including termination, revocation, or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification, or contract in lieu of the adverse action;

(d) A revocation, denial, or restriction placed on any professional license; or

(e) A final decision of a disciplinary board.

(19) "Nonconviction information" means arrest, founded allegations of child abuse, or neglect pursuant to chapter 26.44 RCW, or other negative action adverse to the applicant.

(20) "Nonschool-age child" means a child who is age six years or younger and who is not enrolled in a public or private school.

(21) "Part day program" means an early childhood education and assistance program that offers early learning education for at least two and one-half hours per class session, at least three hundred twenty hours per year, for a minimum of thirty weeks per year.

(22) "Private school" means a private school approved by the state under chapter 28A.195 RCW.

(23) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(24) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(25) "School-age child" means a child who is ((~~between the ages of~~)) five years ((~~and~~)) of age through twelve years of age and is attending a public or

private school or is receiving home-based instruction under chapter 28A.200 RCW.

(26) "Washington state preschool program" means an education program for children three-to-five years of age who have not yet entered kindergarten, such as the early childhood education and assistance program.

Passed by the House March 8, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 170

[House Bill 2520]

MARIJUANA PLANTS--SALE TO COOPERATIVES

AN ACT Relating to the sale of marijuana to regulated cooperatives; amending RCW 69.50.325 and 69.51A.250; and providing an effective date.

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

Sec. 1. RCW 69.50.325 and 2015 c 70 s 5 are each amended to read as follows:

(1) There shall be a marijuana producer's license to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers and to produce marijuana plants for sale to cooperatives as described under RCW 69.51A.250, regulated by the state liquor and cannabis board and subject to annual renewal. The production, possession, delivery, distribution, and sale of marijuana in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana producer, shall not be a criminal or civil offense under Washington state law. Every marijuana producer's license shall be issued in the name of the applicant, shall specify the location at which the marijuana producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana producer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana producer intends to produce marijuana.

(2) There shall be a marijuana processor's license to process, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers, regulated by the state liquor and cannabis board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of marijuana, useable marijuana, marijuana-infused products, and marijuana concentrates in accordance with the provisions of this chapter and chapter 69.51A RCW and the rules adopted to implement and enforce these chapters, by a validly licensed marijuana processor, shall not be a criminal or civil offense under Washington state law. Every marijuana processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana

processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana processor's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana processor intends to process marijuana.

(3) There shall be a marijuana retailer's license to sell marijuana concentrates, useable marijuana, and marijuana-infused products at retail in retail outlets, regulated by the state liquor and cannabis board and subject to annual renewal. The possession, delivery, distribution, and sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell marijuana concentrates, useable marijuana, and marijuana-infused products.

Sec. 2. RCW 69.51A.250 and 2015 2nd sp.s. c 4 s 1001 are each amended to read as follows:

(1) Qualifying patients or designated providers may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative. No more than four qualifying patients or designated providers may become members of a cooperative under this section and all members must hold valid recognition cards. All members of the cooperative must be at least twenty-one years old. The designated provider of a qualifying patient who is under twenty-one years old may be a member of a cooperative on the qualifying patient's behalf. All plants grown in the cooperative must be purchased or cloned from a plant purchased from a licensed marijuana producer as defined in RCW 69.50.101.

(2) Qualifying patients and designated providers who wish to form a cooperative must register the location with the state liquor and cannabis board and this is the only location where cooperative members may grow or process marijuana. This registration must include the names of all participating members and copies of each participant's recognition card. Only qualifying patients or designated providers registered with the state liquor and cannabis board in association with the location may participate in growing or receive useable marijuana or marijuana-infused products grown at that location.

(3) No cooperative may be located in any of the following areas:

(a) Within one mile of a marijuana retailer;

(b) Within the smaller of either:

(i) One thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or any game arcade that admission to which is not restricted to persons aged twenty-one years or older; or

(ii) The area restricted by ordinance, if the cooperative is located in a city, county, or town that has passed an ordinance pursuant to RCW 69.50.331(8); or

(c) Where prohibited by a city, town, or county zoning provision.

(4) The state liquor and cannabis board must deny the registration of any cooperative if the location does not comply with the requirements set forth in subsection (3) of this section.

(5) If a qualifying patient or designated provider no longer participates in growing at the location, he or she must notify the state liquor and cannabis board within fifteen days of the date the qualifying patient or designated provider ceases participation. The state liquor and cannabis board must remove his or her name from connection to the cooperative. Additional qualifying patients or designated providers may not join the cooperative until sixty days have passed since the date on which the last qualifying patient or designated provider notifies the state liquor and cannabis board that he or she no longer participates in that cooperative.

(6) Qualifying patients or designated providers who participate in a cooperative under this section:

(a) May grow up to the total amount of plants for which each participating member is authorized on their recognition cards, up to a maximum of sixty plants. At the location, the qualifying patients or designated providers may possess the amount of useable marijuana that can be produced with the number of plants permitted under this subsection, but no more than seventy-two ounces;

(b) May only participate in one cooperative;

(c) May only grow plants in the cooperative and if he or she grows plants in the cooperative may not grow plants elsewhere;

(d) Must provide assistance in growing plants. A monetary contribution or donation is not to be considered assistance under this section. Participants must provide nonmonetary resources and labor in order to participate; and

(e) May not sell, donate, or otherwise provide marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to a person who is not participating under this section.

(7) The location of the cooperative must be the domicile of one of the participants. Only one cooperative may be located per property tax parcel. A copy of each participant's recognition card must be kept at the location at all times.

(8) The state liquor and cannabis board may adopt rules to implement this section including:

(a) Any security requirements necessary to ensure the safety of the cooperative and to reduce the risk of diversion from the cooperative;

(b) A seed to sale traceability model that is similar to the seed to sale traceability model used by licensees that will allow the state liquor and cannabis board to track all marijuana grown in a cooperative.

(9) The state liquor and cannabis board or law enforcement may inspect a cooperative registered under this section to ensure members are in compliance with this section. The state liquor and cannabis board must adopt rules on reasonable inspection hours and reasons for inspections.

NEW SECTION. **Sec. 3.** This act takes effect July 1, 2016.

Passed by the House February 17, 2016.

Passed by the Senate March 1, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 171

[House Bill 2521]

MARIJUANA--DISPOSAL BY RETAILER

AN ACT Relating to allowing for proper disposal of unsellable marijuana by a licensed marijuana retail outlet; amending RCW 69.50.357; prescribing penalties; and providing an effective date.

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

Sec. 1. RCW 69.50.357 and 2015 2nd sp.s. c 4 s 203 are each amended to read as follows:

(1) Retail outlets may not sell products or services other than marijuana concentrates, useable marijuana, marijuana-infused products, or paraphernalia intended for the storage or use of marijuana concentrates, useable marijuana, or marijuana-infused products.

(2) Licensed marijuana retailers may not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter or remain on the premises of a retail outlet. However, qualifying patients between eighteen and twenty-one years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of eighteen with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement, but may not purchase products for their personal medical use.

(3)(a) Licensed marijuana retailers must ensure that all employees are trained on the rules adopted to implement this chapter, identification of persons under the age of twenty-one, and other requirements adopted by the state liquor and cannabis board to ensure that persons under the age of twenty-one are not permitted to enter or remain on the premises of a retail outlet.

(b) Licensed marijuana retailers with a medical marijuana endorsement must ensure that all employees are trained on the subjects required by (a) of this subsection as well as identification of authorizations and recognition cards. Employees must also be trained to permit qualifying patients who hold recognition cards and are between the ages of eighteen and twenty-one to enter the premises and purchase marijuana for their personal medical use and to permit qualifying patients who are under the age of eighteen with a recognition card to enter the premises if accompanied by their designated providers.

(4) Licensed marijuana retailers may not display any signage outside of the licensed premises, other than two signs identifying the retail outlet by the licensee's business or trade name. 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) Except for the purposes of disposal as authorized by the board, no licensed marijuana retailer or employee of a retail outlet may open or consume,

or allow to be opened or consumed, any marijuana concentrates, useable marijuana, or marijuana-infused product on the outlet premises.

(6) The state liquor and cannabis board must fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated marijuana account created under RCW 69.50.530.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2016.

Passed by the House February 17, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 172

[Engrossed Second Substitute Senate Bill 6564]

PERSONS WITH DEVELOPMENTAL DISABILITIES--ABUSE AND NEGLECT--OMBUDS

AN ACT Relating to persons with developmental disabilities; amending RCW 74.34.300; adding new sections to chapter 71A.12 RCW; adding a new chapter to Title 43 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds and declares that the prevalence of the abuse and neglect of individuals with developmental disabilities has become an issue that negatively affects the health and well-being of such individuals. In order to address this issue, the state seeks to increase visitation of clients who are classified at the highest risk of abuse and neglect based on the assessment of risk factors by developmental disabilities administration case managers, and to create an independent office of the developmental disabilities ombuds to monitor and report on services to persons with developmental disabilities.

NEW SECTION. **Sec. 2.** A new section is added to chapter 71A.12 RCW to read as follows:

At every developmental disabilities administration annual assessment, the case manager is required to meet with the client in an in-person setting. If the client is receiving personal care services or supported living services, the case manager must ask permission to view the client's living quarters and note his or her observations in the service episode record. If the case manager is unable to view the client's living quarters for any reason, the case manager must note this in his or her report along with the reason given for why this is not practicable at the current time.

NEW SECTION. **Sec. 3.** A new section is added to chapter 71A.12 RCW to read as follows:

(1) Within funds appropriated for this purpose, the developmental disabilities administration shall increase home visits for clients identified as having the highest risk of abuse and neglect.

(2)(a) The developmental disabilities administration must develop a process to determine which of its clients who receive an annual developmental

disabilities assessment are at highest risk of abuse or neglect. The administration may consider factors such as:

(i) Whether the client lives with the client's caregiver and receives no other developmental disabilities administration services, or whether the client is largely or entirely dependent on a sole caregiver for assistance, and the caregiver is largely or entirely dependent on the client for his or her income;

(ii) Whether the client has limited ability to supervise the caregiver, to express himself or herself verbally, has few community contacts, or no independent person outside the home is identified to assist the client;

(iii) Whether the client has experienced a destabilizing event such as hospitalization, arrest, or victimization;

(iv) Whether the client has been the subject of an adult protective services or child protective services referral in the past year; or

(v) Whether the client lives in an environment that jeopardizes personal safety.

(b) The developmental disabilities administration must visit those clients identified as having the highest risk of abuse or neglect at least once every four months, including unannounced visits as needed. This unannounced visit may replace a scheduled visit; however if the case manager is unable to meet with the client, a follow-up visit must be scheduled. A client may refuse to allow an unannounced visit to take place, but this fact must be noted.

(3) The developmental disabilities administration may develop rules to implement this section.

Sec. 4. RCW 74.34.300 and 2008 c 146 s 10 are each amended to read as follows:

(1) The department ((~~may~~)) shall conduct a vulnerable adult fatality review in the event of a death of a vulnerable adult when the department has reason to believe that the death of the vulnerable adult may be related to the abuse, abandonment, exploitation, or neglect of the vulnerable adult, or may be related to the vulnerable adult's self-neglect, and the vulnerable adult was:

(a) Receiving home and community-based services in his or her own home or licensed or certified settings, described under chapters 74.39 ((~~and~~)), 74.39A, 18.20, 70.128, and 71A.12 RCW, within sixty days preceding his or her death; or

(b) Living in his or her own home or licensed or certified settings described under chapters 74.39, 74.39A, 18.20, 70.128, and 71A.12 RCW and was the subject of a report under this chapter received by the department within twelve months preceding his or her death.

(2) When conducting a vulnerable adult fatality review of a person who had been receiving hospice care services before the person's death, the review shall provide particular consideration to the similarities between the signs and symptoms of abuse and those of many patients receiving hospice care services.

(3) All files, reports, records, communications, and working papers used or developed for purposes of a fatality review are confidential and not subject to disclosure pursuant to RCW 74.34.095.

(4) The department may adopt rules to implement this section.

NEW SECTION. **Sec. 5.** (1) There is created an office of the developmental disabilities ombuds. The department of commerce shall contract with a private, independent nonprofit organization to provide developmental

disability ombuds services. The department of commerce shall designate, by a competitive bidding process, the nonprofit organization that will contract to operate the ombuds. The selection process must include consultation of stakeholders in the development of the request for proposals and evaluation of bids. The selected organization must have experience and the capacity to effectively communicate regarding developmental disabilities issues with policymakers, stakeholders, and the general public and must be prepared and able to provide all program and staff support necessary, directly or through subcontracts, to carry out all duties of the office.

(2) The contracting organization and its subcontractors, if any, are not state agencies or departments, but instead are private, independent entities operating under contract with the state.

(3) The governor or state may not revoke the designation of the organization contracted to provide the services of the ombuds except upon a showing of neglect of duty, misconduct, or inability to perform duties.

(4) The department of commerce shall ensure that the ombuds staff has access to sufficient training or experience with issues relating to persons with developmental disabilities and the program and staff support necessary to enable the ombuds to effectively protect the interests of persons with developmental disabilities. The office of the developmental disabilities ombuds shall have the powers and duties to do the following:

(a) Provide information as appropriate on the rights and responsibilities of persons receiving developmental disability administration services or other state services, and on the procedures for providing these services;

(b) Investigate, upon its own initiative or upon receipt of a complaint, an administrative act related to a person with developmental disabilities alleged to be contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds; however, the ombuds may decline to investigate any complaint;

(c) Monitor the procedures as established, implemented, and practiced by the department to carry out its responsibilities in the delivery of services to a person with developmental disabilities, with a view toward appropriate preservation of families and ensuring health and safety;

(d) Review periodically the facilities and procedures of state institutions which serve persons with developmental disabilities and state-licensed facilities or residences;

(e) Recommend changes in the procedures for addressing the needs of persons with developmental disabilities;

(f) Submit annually, by November 1st, to the governor and appropriate committees of the legislature a report analyzing the work of the office, including recommendations;

(g) Establish procedures to protect the confidentiality of records and sensitive information to ensure that the identity of any complainant or person with developmental disabilities will not be disclosed without the written consent of the complainant or person, or upon court order;

(h) Maintain independence and authority within the bounds of the duties prescribed by this chapter, insofar as this independence and authority is exercised in good faith and within the scope of contract; and

(i) Carry out such other activities as determined by the department of commerce within the scope of this chapter.

(5) The developmental disabilities ombuds must consult with stakeholders to develop a plan for future expansion of the ombuds into a model of individual ombuds services akin to the operations of the long-term care ombuds. The developmental disabilities ombuds shall report its progress and recommendations related to this subsection to the governor and appropriate committees of the legislature by November 1, 2019.

NEW SECTION. **Sec. 6.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administration" means the developmental disabilities administration of the department of social and health services.

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

(3) "Ombuds" means the office of the developmental disabilities ombuds.

NEW SECTION. **Sec. 7.** The ombuds shall collaborate and have a memoranda of agreement with the office of the state long-term care ombuds, the office of the family and children's ombuds, Washington protection and advocacy system, the mental health ombuds, and the office of the education ombuds to clarify authority in those situations where their mandates overlap.

NEW SECTION. **Sec. 8.** (1) A developmental disabilities ombuds shall not have participated in the paid provision of services to any person with developmental disabilities within the past year.

(2) A developmental disabilities ombuds shall not have been employed in a governmental position with direct involvement in the licensing, certification, or regulation of a paid developmental disabilities service provider within the past year.

(3) No developmental disabilities ombuds or any member of his or her immediate family may have, or have had within the past year, any significant ownership or investment interest in a paid provider of services to persons with developmental disabilities.

(4) A developmental disabilities ombuds shall not be assigned to investigate a facility or provider of services which provides care or services to a member of that ombuds' immediate family.

NEW SECTION. **Sec. 9.** The ombuds shall treat all matters under investigation, including the identities of service recipients, complainants, and individuals from whom information is acquired, as confidential, except as far as disclosures may be necessary to enable the ombuds to perform the duties of the office and to support any recommendations resulting from an investigation. Upon receipt of information that by law is confidential or privileged, the ombuds shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law. Investigative records of the office of the ombuds are confidential and are exempt from public disclosure under chapter 42.56 RCW.

NEW SECTION. **Sec. 10.** (1) Identifying information about complainants or witnesses is not subject to any method of legal compulsion and may not be revealed to the legislature or the governor except under the following circumstances: (a) The complainant or witness waives confidentiality; (b) under a legislative subpoena when there is a legislative investigation for neglect of

duty or misconduct by the ombuds or ombuds' office when the identifying information is necessary to the investigation of the ombuds' acts; or (c) under an investigation or inquiry by the governor as to neglect of duty or misconduct by the ombuds or ombuds' office when the identifying information is necessary to the investigation of the ombuds' acts. Consistently with this section, the ombuds must act to protect sensitive client information.

(2) For the purposes of this section, "identifying information" includes the complainant's or witness's name, location, telephone number, likeness, social security number or other identification number, or identification of immediate family members.

NEW SECTION. **Sec. 11.** The privilege described in section 10 of this act does not apply when:

(1) The ombuds or ombuds' staff member has direct knowledge of an alleged crime, and the testimony, evidence, or discovery sought is relevant to that allegation;

(2) The ombuds or a member of the ombuds' staff has received a threat of, or becomes aware of a risk of, imminent serious harm to any person, and the testimony, evidence, or discovery sought is relevant to that threat or risk; or

(3) The ombuds has been asked to provide general information regarding the general operation of, or the general processes employed at, the ombuds' office.

NEW SECTION. **Sec. 12.** (1) An employee of the office of the developmental disabilities ombuds is not liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against an employee of the department, an employee of the department of commerce, an employee of a contracting agency of the department, a provider of developmental disabilities services, or a recipient of department services for any communication made, or information given or disclosed, to aid the office of the developmental disabilities ombuds in carrying out its responsibilities, unless the communication or information is made, given, or disclosed maliciously or without good faith. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by an ombuds, if reasonably related to the requirements of that individual's responsibilities under this chapter and done in good faith, are privileged and that privilege serves as a defense in any action in libel or slander.

NEW SECTION. **Sec. 13.** When the ombuds or ombuds' staff member has reasonable cause to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary proceedings, the ombuds or ombuds' staff member shall report the matter, or cause a report to be made, to the appropriate authorities.

NEW SECTION. **Sec. 14.** The department and the department of health shall:

(1) Allow the ombuds or the ombuds' designee to communicate privately with any person receiving services from the department, or any person who is part of a fatality or near fatality investigation involving a person with

developmental disabilities, for the purposes of carrying out its duties under this chapter;

(2) Permit the ombuds or the ombuds' designee physical access to state institutions serving persons with developmental disabilities and information in the possession of the department concerning state-licensed facilities or residences for the purpose of carrying out its duties under this chapter;

(3) Upon the ombuds' request, grant the ombuds or the ombuds' designee the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the department or the department of health that the ombuds considers necessary in an investigation.

NEW SECTION. **Sec. 15.** Sections 5 through 14 of this act constitute a new chapter in Title 43 RCW.

Passed by the Senate March 8, 2016.
Passed by the House March 3, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 173

[Second Substitute House Bill 2530]

SEXUAL ASSAULT KITS--TRACKING AND DONATIONS FOR TESTING

AN ACT Relating to protecting victims of sex crimes; amending RCW 36.27.020; reenacting and amending RCW 42.56.240 and 43.79A.040; adding new sections to chapter 43.43 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.28 RCW; adding a new section to chapter 70.41 RCW; adding a new section to chapter 43.31 RCW; creating a new section; and providing an expiration date.

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

PART I - TRACKING AND TESTING OF SEXUAL ASSAULT KITS

NEW SECTION. **Sec. 1.** The legislature recognizes the deep pain and suffering experienced by victims of sexual assault. Sexual assault is an extreme violation of a person's body and sense of self and safety. Sexual violence is a pervasive social problem. National studies indicate that approximately one in four women will be sexually assaulted in their lifetimes. Survivors often turn to hospitals and local law enforcement for help, and many volunteer to have professionals collect a sexual assault kit to preserve physical evidence from their bodies. The process of collecting a sexual assault kit is extremely invasive and difficult.

The legislature finds that, when forensic analysis is completed, the biological evidence contained inside sexual assault kits can be an incredibly powerful tool for law enforcement to solve and prevent crime. Forensic analysis of all sexual assault kits sends a message to survivors that they matter. It sends a message to perpetrators that they will be held accountable for their crimes. The legislature is committed to bringing healing and justice to survivors of sexual assault.

The legislature recognizes the laudable and successful efforts of law enforcement in the utilization of forensic analysis of sexual assault kits in the investigation and prosecution of crimes in Washington state. In 2015, the legislature enhanced utilization of this tool by requiring the preservation and

forensic analysis of sexual assault kits. The legislature intends to continue building on its efforts through the establishment of the statewide sexual assault kit tracking system. The system will be designed to track all sexual assault kits in Washington state, regardless of when they were collected, in order to further empower survivors with information, assist law enforcement with investigations and crime prevention, and create transparency and foster public trust.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.43 RCW to read as follows:

(1) The Washington state patrol shall create and operate a statewide sexual assault kit tracking system. The Washington state patrol may contract with state or nonstate entities including, but not limited to, private software and technology providers, for the creation, operation, and maintenance of the system.

(2) The statewide sexual assault kit tracking system must:

(a) Track the location and status of sexual assault kits throughout the criminal justice process, including the initial collection in examinations performed at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis at forensic laboratories, and storage and any destruction after completion of analysis;

(b) Allow medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, the Washington state patrol bureau of forensic laboratory services, and other entities in the custody of sexual assault kits to update and track the status and location of sexual assault kits;

(c) Allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits; and

(d) Use electronic technology or technologies allowing continuous access.

(3) The Washington state patrol may use a phased implementation process in order to launch the system and facilitate entry and use of the system for required participants. The Washington state patrol may phase initial participation according to region, volume, or other appropriate classifications. All entities in the custody of sexual assault kits shall fully participate in the system no later than June 1, 2018. The Washington state patrol shall submit a report on the current status and plan for launching the system, including the plan for phased implementation, to the joint legislative task force on sexual assault forensic examination best practices, the appropriate committees of the legislature, and the governor no later than January 1, 2017.

(4) The Washington state patrol shall submit a semiannual report on the statewide sexual assault kit tracking system to the joint legislative task force on sexual assault forensic examination best practices, the appropriate committees of the legislature, and the governor. The Washington state patrol may publish the current report on its web site. The first report is due July 31, 2018, and subsequent reports are due January 31st and July 31st of each year. The report must include the following:

(a) The total number of sexual assault kits in the system statewide and by jurisdiction;

(b) The total and semiannual number of sexual assault kits where forensic analysis has been completed statewide and by jurisdiction;

(c) The number of sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(d) The total and semiannual number of sexual assault kits where forensic analysis has been requested but not completed statewide and by jurisdiction;

(e) The average and median length of time for sexual assault kits to be submitted for forensic analysis after being added to the system, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(f) The average and median length of time for forensic analysis to be completed on sexual assault kits after being submitted for analysis, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(g) The total and semiannual number of sexual assault kits destroyed or removed from the system statewide and by jurisdiction;

(h) The total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and six months or more have passed since those sexual assault kits were added to the system; and

(i) The total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and one year or more has passed since those sexual assault kits were added to the system.

(5) For the purpose of reports under subsection (4) of this section, a sexual assault kit must be assigned to the jurisdiction associated with the law enforcement agency anticipated to receive the sexual assault kit or otherwise in the custody of the sexual assault kit.

(6) Any public agency or entity, including its officials and employees, and any hospital and its employees providing services to victims of sexual assault may not be held civilly liable for damages arising from any release of information or the failure to release information related to the statewide sexual assault kit tracking system, so long as the release was without gross negligence.

NEW SECTION. **Sec. 3.** A new section is added to chapter 35.21 RCW to read as follows:

Local law enforcement agencies shall participate in the statewide sexual assault kit tracking system established in section 2 of this act for the purpose of tracking the status of all sexual assault kits in the custody of local law enforcement agencies and other entities contracting with local law enforcement agencies. Local law enforcement agencies shall begin full participation in the system according to the implementation schedule established by the Washington state patrol.

NEW SECTION. **Sec. 4.** A new section is added to chapter 36.28 RCW to read as follows:

A sheriff and his or her deputies shall participate in the statewide sexual assault kit tracking system established in section 2 of this act for the purpose of tracking the status of all sexual assault kits in the custody of the department and other entities contracting with the department. A sheriff shall begin full participation in the system according to the implementation schedule established by the Washington state patrol.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.43 RCW to read as follows:

The Washington state patrol bureau of forensic laboratory services shall participate in the statewide sexual assault kit tracking system established in section 2 of this act for the purpose of tracking the status of all sexual assault kits in the custody of the Washington state patrol and other entities contracting with the Washington state patrol. The Washington state patrol bureau of forensic laboratory services shall begin full participation in the system according to the implementation schedule established by the Washington state patrol.

NEW SECTION. **Sec. 6.** A new section is added to chapter 70.41 RCW to read as follows:

Hospitals licensed under this chapter shall participate in the statewide sexual assault kit tracking system established in section 2 of this act for the purpose of tracking the status of all sexual assault kits collected by or in the custody of hospitals and other entities contracting with hospitals. Hospitals shall begin full participation in the system according to the implementation schedule established by the Washington state patrol.

Sec. 7. RCW 36.27.020 and 2012 1st sp.s. c 5 s 2 are each amended to read as follows:

The prosecuting attorney shall:

(1) Be legal adviser of the legislative authority, giving it his or her written opinion when required by the legislative authority or the chairperson thereof touching any subject which the legislative authority may be called or required to act upon relating to the management of county affairs;

(2) Be legal adviser to all county and precinct officers and school directors in all matters relating to their official business, and when required draw up all instruments of an official nature for the use of said officers;

(3) Appear for and represent the state, county, and all school districts subject to the supervisory control and direction of the attorney general in all criminal and civil proceedings in which the state or the county or any school district in the county may be a party;

(4) Prosecute all criminal and civil actions in which the state or the county may be a party, defend all suits brought against the state or the county, and prosecute actions upon forfeited recognizances and bonds and actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or the county;

(5) Attend and appear before and give advice to the grand jury when cases are presented to it for consideration and draw all indictments when required by the grand jury;

(6) Institute and prosecute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of felonies when the prosecuting attorney has information that any such offense has been committed and the prosecuting attorney shall for that purpose attend when required by them if the prosecuting attorney is not then in attendance upon the superior court;

(7) Carefully tax all cost bills in criminal cases and take care that no useless witness fees are taxed as part of the costs and that the officers authorized to execute process tax no other or greater fees than the fees allowed by law;

(8) Receive all cost bills in criminal cases before district judges at the trial of which the prosecuting attorney was not present, before they are lodged with the legislative authority for payment, whereupon the prosecuting attorney may

retax the same and the prosecuting attorney must do so if the legislative authority deems any bill exorbitant or improperly taxed;

(9) Present all violations of the election laws which may come to the prosecuting attorney's knowledge to the special consideration of the proper jury;

(10) Examine once in each year the official bonds of all county and precinct officers and report to the legislative authority any defect in the bonds of any such officer;

(11) Seek to reform and improve the administration of criminal justice and stimulate efforts to remedy inadequacies or injustice in substantive or procedural law;

(12) Participate in the statewide sexual assault kit tracking system established in section 2 of this act for the purpose of tracking the status of all sexual assault kits connected to criminal investigations and prosecutions within the county. Prosecuting attorneys shall begin full participation in the system according to the implementation schedule established by the Washington state patrol.

Sec. 8. RCW 42.56.240 and 2015 c 224 s 3 and 2015 c 91 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;

(10) The felony firearm offense conviction database of felony firearm offenders established in RCW 43.43.822;

(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;

(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; ((~~and~~))

(13) The global positioning system data that would indicate the location of the residence of an employee or worker of a criminal justice agency as defined in RCW 10.97.030; and

(14) Any records and information contained within the statewide sexual assault kit tracking system established in section 2 of this act.

PART II - ACCEPTING DONATIONS FOR PROTECTING VICTIMS

NEW SECTION. **Sec. 9.** A new section is added to chapter 43.31 RCW to read as follows:

(1) The Washington sexual assault kit program is created within the department for the purpose of accepting private funds conducting forensic analysis of sexual assault kits in the possession of law enforcement agencies but not submitted for analysis as of July 24, 2015. The director may accept gifts, grants, donations, or moneys from any source for deposit in the Washington sexual assault kit account created under subsection (2) of this section.

(2) The Washington sexual assault kit account is created in the custody of the state treasurer. Funds deposited in the Washington sexual assault kit account may be used for the Washington sexual assault kit program established under this section. The Washington sexual assault kit account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(3) Funds deposited in the Washington sexual assault kit account must be transferred and used exclusively for the following:

(a) Eighty-five percent of the funds for the Washington state patrol bureau of forensic laboratory services for the purpose of conducting forensic analysis of

sexual assault kits in the possession of law enforcement agencies but not submitted for forensic analysis as of July 24, 2015; and

(b) Fifteen percent of the funds for the office of crime victims advocacy in the department for the purpose of funding grants for sexual assault nurse examiner services and training.

(4) This section expires June 30, 2022.

Sec. 10. RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the Washington advanced college tuition payment program account, the accessible communities account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the

Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Passed by the House March 8, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 174

[Substitute House Bill 2539]

REAL ESTATE EXCISE TAX--INHERITANCE--DOCUMENTATION

AN ACT Relating to the inheritance exemption for the real estate excise tax; amending RCW 82.45.197; and creating new sections.

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

NEW SECTION. **Sec. 1.** The legislature finds that state and local real estate excise taxes apply to the sale of real property unless one of several statutory exceptions apply. The legislature further finds that one such exception involves real property transferred as a result of a devise by will or inheritance. The legislature further finds that RCW 82.45.197 requires specific types of documentation to be provided to qualify for this inheritance exemption. The legislature further finds that in some cases, property passes from a decedent to a devisee or an heir with no written documentation or court record that satisfies the requirements of RCW 82.45.197. The legislature further finds that real estate excise tax does not apply to transfers of real property by operation of law, but that the process for documenting such transfers should be clarified. It is the

legislature's intent to clarify that state and local real estate excise taxes do not apply when a devisee or an heir files a lack of probate affidavit where no additional documentation exists to substantiate that the devisee or heir is legally entitled to the property as a result of a will or inheritance.

Sec. 2. RCW 82.45.197 and 2014 c 58 s 25 are each amended to read as follows:

(1) In order to receive an exemption under RCW 82.45.010(3)(a) from the tax in this chapter on real property transferred as a result of a devise by will or inheritance ((~~under RCW 82.45.010(3)(a)~~)), the following documentation must be provided to the county treasurer:

((~~(1)~~)) (a) If the property is being transferred under the terms of a community property agreement, a copy of the recorded agreement and a certified copy of the death certificate;

((~~(2)~~)) (b) If the property is being transferred under the terms of a trust instrument, a certified copy of the death certificate and a copy of that portion of the trust instrument showing the authority of the grantor;

((~~(3)~~)) (c) If the property is being transferred under the terms of a probated will, a certified copy of the letters testamentary or in the case of intestate administration, a certified copy of the letters of administration showing that the grantor is the court-appointed executor, executrix, or administrator((~~, and a certified copy of the death certificate~~));

((~~(4)~~)) (d) In the case of joint tenants with right of survivorship and remainder interests, a certified copy of the death certificate ((~~is recorded to perfect title~~));

((~~(5)~~)) (e) If the property is being transferred pursuant to a court order, a certified copy of the court order requiring the transfer, and confirming that the grantor is required to do so under the terms of the order;

((~~(6)~~)) (f) If the community property interest of the decedent is being transferred to a surviving spouse or surviving domestic partner absent the documentation set forth in ((~~subsections (1) through (5)~~)) (a) through (e) of this ((~~section~~)) subsection, a certified copy of the death certificate and a signed lack of probate affidavit from the surviving spouse or surviving domestic partner affirming that he or she is the sole and rightful heir to the property; ((~~or~~

~~(7)~~)) (g) If the real property is transferred to one or more heirs by operation of law, or transferred under a will that has not been probated, but absent the documentation set forth in (a) through (e) of this subsection, a certified copy of the death certificate and a signed lack of probate affidavit affirming that the affiant or affiants are the sole and rightful heirs to the property;

(h) When real property is transferred as described in (g) of this subsection (1) and the decedent-transferor had also inherited the property from his or her spouse or domestic partner but never transferred title to the property into the decedent-transferor's name, the transferee or transferees must provide: (i) A certified copy of the death certificates for the decedent-transferor and the spouse or domestic partner from whom the decedent-transferor inherited the real property; and (ii) a lack of probate affidavit affirming that the affiant or affiants are the rightful heirs to the property; or

(i) If the property is being transferred pursuant to a transfer on death deed, a certified copy of the death certificate ((~~is recorded to perfect title~~)).

(2) The documentation provided to the county treasurer under this section must also be recorded with the county auditor.

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

(a) "Heir" has the same meaning as provided in RCW 11.02.005;

(b) "Lack of probate affidavit" means a signed and notarized document declaring that the affiant or affiants are the rightful heir or heirs to the property and containing the following information:

(i) The names of the affiant or affiants;

(ii) The relationship of the affiant or affiants to the decedent;

(iii) The names of all other heirs of the decedent living at the time of the decedent's death;

(iv) A description of the real property;

(v) Whether the decedent left a will that includes a devise of real property; and

(vi) Any other information the department may require.

NEW SECTION. **Sec. 3.** RCW 82.32.805 and 82.32.808 do not apply to this act.

Passed by the House February 16, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 175

[Engrossed Substitute House Bill 2540]

TAX PREFERENCE SURVEYS AND REPORTS--FAILURE TO SUBMIT--PENALTY

AN ACT Relating to modifying the penalty for taxpayers that do not submit an annual survey or report; amending RCW 82.32.534 and 82.32.585; creating a new section; and providing an effective date.

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

Sec. 1. RCW 82.32.534 and 2014 c 97 s 102 are each amended to read as follows:

(1)(a) Every person claiming a tax preference that requires a report under this section must file a complete annual report with the department. The report is due by ((~~April 30th~~)) May 31st of the year following any calendar year in which a person becomes eligible to claim the tax preference that requires a report under this section. The department may extend the due date for timely filing of annual reports under this section as provided in RCW 82.32.590.

(b) The report must include information detailing employment, wages, and employer-provided health and retirement benefits for employment positions in Washington for the year that the tax preference was claimed. However, persons engaged in manufacturing commercial airplanes or components of such airplanes may report employment, wage, and benefit information per job at the manufacturing site for the year that the tax preference was claimed. The report must not include names of employees. The report must also detail employment by the total number of full-time, part-time, and temporary positions for the year that the tax preference was claimed.

(c) Persons receiving the benefit of the tax preference provided by RCW 82.16.0421 or claiming any of the tax preferences provided by RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5) must indicate on the annual report the quantity of product produced in this state during the time period covered by the report.

(d) If a person filing a report under this section did not file a report with the department in the previous calendar year, the report filed under this section must also include employment, wage, and benefit information for the calendar year immediately preceding the calendar year for which a tax preference was claimed.

(2) As part of the annual report, the department may request additional information necessary to measure the results of, or determine eligibility for, the tax preference.

(3) Other than information requested under subsection (2) of this section, the information contained in an annual report filed under this section is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(4)(a) Except as otherwise provided by law, if a person claims a tax preference that requires an annual report under this section but fails to submit a complete report by the due date or any extension under RCW 82.32.590, the department must declare:

(i) Thirty-five percent of the amount of the tax preference claimed for the previous calendar year to be immediately due and payable; and

(ii) An additional fifteen percent of the amount of the tax preference claimed for the previous calendar year to be immediately due and payable if the person has previously been assessed under this subsection (4) for failure to submit a report under this section for the same tax preference.

(b) The department ((~~must assess interest, but not penalties, on the amounts due under this subsection. The interest must be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date the tax preference was claimed, and accrues until the taxes for which the tax preference was claimed are repaid. Amounts due under this subsection are not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request~~)) may not assess interest or penalties on amounts due under this subsection.

(5) The department must use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers may be included in any category. The department must report these statistics to the legislature each year by December ((~~1st~~)) 31st.

(6) For the purposes of this section:

(a) "Person" has the meaning provided in RCW 82.04.030 and also includes the state and its departments and institutions.

(b) "Tax preference" has the meaning provided in RCW 43.136.021 and includes only the tax preferences requiring a survey under this section.

Sec. 2. RCW 82.32.585 and 2014 c 97 s 103 are each amended to read as follows:

(1)(a) Every person claiming a tax preference that requires a survey under this section must file a complete annual survey with the department.

(i) Except as provided in (a)(ii) of this subsection, the survey is due by ((~~April 30th~~)) May 31st of the year following any calendar year in which a person becomes eligible to claim the tax preference that requires a survey under this section.

(ii) If the tax preference is a deferral of tax, the first survey must be filed by ((~~April 30th~~)) May 31st of the calendar year following the calendar year in which the investment project is certified by the department as operationally complete, and a survey must be filed by ((~~April 30th~~)) May 31st of each of the seven succeeding calendar years.

(b) The department may extend the due date for timely filing of annual surveys under this section as provided in RCW 82.32.590.

(2)(a) The survey must include the amount of the tax preference claimed for the calendar year covered by the survey. For a person that claimed an exemption provided in RCW 82.08.025651 or 82.12.025651, the survey must include the amount of tax exempted under those sections in the prior calendar year for each general area or category of research and development for which exempt machinery and equipment and labor and services were acquired in the prior calendar year.

(b) The survey must also include the following information for employment positions in Washington, not to include names of employees, for the year that the tax preference was claimed:

(i) The number of total employment positions;

(ii) Full-time, part-time, and temporary employment positions as a percent of total employment;

(iii) The number of employment positions according to the following wage bands: Less than thirty thousand dollars; thirty thousand dollars or greater, but less than sixty thousand dollars; and sixty thousand dollars or greater. A wage band containing fewer than three individuals may be combined with another wage band; and

(iv) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands.

(c) For persons claiming the tax preference provided under chapter 82.60 or 82.63 RCW, the survey must also include the number of new products or research projects by general classification, and the number of trademarks, patents, and copyrights associated with activities at the investment project.

(d) For persons claiming the credit provided under RCW 82.04.4452, the survey must also include the qualified research and development expenditures during the calendar year for which the credit was claimed, the taxable amount during the calendar year for which the credit was claimed, the number of new products or research projects by general classification, the number of trademarks, patents, and copyrights associated with the research and development activities for which the credit was claimed, and whether the tax preference has been assigned, and who assigned the credit. The definitions in RCW 82.04.4452 apply to this subsection (2)(d).

(e) For persons claiming the tax exemption in RCW 82.08.025651 or 82.12.025651, the survey must also include the general areas or categories of research and development for which machinery and equipment and labor and services were acquired, exempt from tax under RCW 82.08.025651 or 82.12.025651, in the prior calendar year.

(f) If the person filing a survey under this section did not file a survey with the department in the previous calendar year, the survey filed under this section must also include the employment, wage, and benefit information required under (b)(i) through (iv) of this subsection for the calendar year immediately preceding the calendar year for which a tax preference was claimed.

(3) As part of the annual survey, the department may request additional information necessary to measure the results of, or determine eligibility for, the tax preference.

(4) All information collected under this section, except the information required in subsection (2)(a) of this section, is deemed taxpayer information under RCW 82.32.330. Information required in subsection (2)(a) of this section is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request, except as provided in subsection (5) of this section. If the amount of the tax preference claimed as reported on the survey is different than the amount actually claimed or otherwise allowed by the department based on the taxpayer's excise tax returns or other information known to the department, the amount actually claimed or allowed may be disclosed.

(5) Persons for whom the actual amount of the tax reduced or saved is less than ten thousand dollars during the period covered by the survey may request the department to treat the amount of the tax reduction or savings as confidential under RCW 82.32.330.

(6)(a) Except as provided in (b) of this subsection or as otherwise provided by law, if a person claims a tax preference that requires an annual survey under this section but fails to submit a complete annual survey by the due date of the survey or any extension under RCW 82.32.590, the department must declare:

(i) Thirty-five percent of the amount of the tax preference claimed for the previous calendar year to be immediately due; and

(ii) An additional fifteen percent of the amount of the tax preference claimed for the previous calendar year to be immediately due and payable, if the person has previously been assessed under this subsection (6) for failure to submit a survey under this section for the same tax preference.

(b) If the tax preference is a deferral of tax, the amount immediately due under this subsection is twelve and one-half percent of the deferred tax ((~~is immediately due~~)). If the economic benefits of the deferral are passed to a lessee, the lessee is responsible for payment to the extent the lessee has received the economic benefit.

(((~~(b)~~))) (c) The department ((~~must assess interest, but not penalties, on the amounts due under this subsection. The interest must be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date the tax preference was claimed, and accrues until the taxes for which the tax preference was claimed are repaid. Amounts due under this subsection are not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request~~)) may not assess interest or penalties on amounts due under this subsection.

(7) The department must use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers may be included in any category. The department must report these statistics to the legislature each year by December ((~~1st~~)) 31st.

(8) For the purposes of this section:

(a) "Person" has the meaning provided in RCW 82.04.030 and also includes the state and its departments and institutions.

(b) "Tax preference" has the meaning provided in RCW 43.136.021 and includes only the tax preferences requiring a survey under this section.

NEW SECTION. **Sec. 3.** (1) In addition to applying prospectively, sections 1(4) and 2(6) of this act apply retroactively for a taxpayer who has filed an appeal regarding taxes, penalties, and interest owed under RCW 82.32.534 or 82.32.585 before January 1, 2016, and the appeal is pending before the department of revenue or the board of tax appeals as of the effective date of this section.

(2) Except for taxpayers described in subsection (1) of this section, sections 1(4) and 2(6) of this act apply to amounts due and payable under sections 1(4) and 2(6) of this act on or after July 1, 2017.

NEW SECTION. **Sec. 4.** This act takes effect July 1, 2016.

Passed by the House February 16, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 176

[Engrossed Substitute House Bill 2545]

FLAME RETARDANT CHEMICALS--CONSUMER PRODUCTS--RESTRICTION

AN ACT Relating to reducing public health threats that particularly impact highly exposed populations, including children and firefighters, by establishing a process for the department of health to restrict the use of toxic flame retardant chemicals in certain types of consumer products; amending RCW 70.240.010 and 70.240.050; and adding new sections to chapter 70.240 RCW.

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

Sec. 1. RCW 70.240.010 and 2008 c 288 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) "Children's cosmetics" means cosmetics that are made for, marketed for use by, or marketed to children under the age of twelve. "Children's cosmetics" includes cosmetics that meet any of the following conditions:

(a) Represented in its packaging, display, or advertising as appropriate for use by children;

(b) Sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children; or

(c) Sold in any of the following:

(i) Retail store, catalogue, or online web site, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(ii) A discrete portion of a retail store, catalogue, or online web site, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(2) "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to children under the age of twelve. "Children's jewelry" includes jewelry that meets any of the following conditions:

(a) Represented in its packaging, display, or advertising as appropriate for use by children under the age of twelve;

(b) Sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children;

(c) Sized for children and not intended for use by adults; or

(d) Sold in any of the following:

(i) A vending machine;

(ii) Retail store, catalogue, or online web site, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(iii) A discrete portion of a retail store, catalogue, or online web site, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(3)(a) "Children's product" includes any of the following:

(i) Toys;

(ii) Children's cosmetics;

(iii) Children's jewelry;

(iv) A product designed or intended by the manufacturer to help a child with sucking or teething, to facilitate sleep, relaxation, or the feeding of a child, or to be worn as clothing by children; or

(v) ((~~Child car seats~~)) Portable infant or child safety seat designed to attach to an automobile seat.

(b) "Children's product" does not include the following:

(i) Batteries;

(ii) Slings and catapults;

(iii) Sets of darts with metallic points;

(iv) Toy steam engines;

(v) Bicycles and tricycles;

(vi) Video toys that can be connected to a video screen and are operated at a nominal voltage exceeding twenty-four volts;

(vii) Chemistry sets;

(viii) Consumer and children's electronic products, including but not limited to personal computers, audio and video equipment, calculators, wireless phones, game consoles, and hand-held devices incorporating a video screen, used to access interactive software and their associated peripherals;

(ix) Interactive software, intended for leisure and entertainment, such as computer games, and their storage media, such as compact disks;

(x) BB guns, pellet guns, and air rifles;

(xi) Snow sporting equipment, including skis, poles, boots, snow boards, sleds, and bindings;

(xii) Sporting equipment, including, but not limited to bats, balls, gloves, sticks, pucks, and pads;

(xiii) Roller skates;

(xiv) Scooters;

(xv) Model rockets;

(xvi) Athletic shoes with cleats or spikes; and

(xvii) Pocket knives and multitools.

(4) "Cosmetics" includes articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and articles intended for use as a component of such an article. "Cosmetics" does not include soap, dietary supplements, or food and drugs approved by the United States food and drug administration.

(5) "Department" means the department of ecology.

(6) "High priority chemical" means a chemical identified by a state agency, federal agency, or accredited research university, or other scientific evidence deemed authoritative by the department on the basis of credible scientific evidence as known to do one or more of the following:

(a) Harm the normal development of a fetus or child or cause other developmental toxicity;

(b) Cause cancer, genetic damage, or reproductive harm;

(c) Disrupt the endocrine system;

(d) Damage the nervous system, immune system, or organs or cause other systemic toxicity;

(e) Be persistent, bioaccumulative, and toxic; or

(f) Be very persistent and very bioaccumulative.

(7) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces ((~~a~~)) residential upholstered furniture as defined in RCW 70.76.010 or children's product or an importer or domestic distributor of ((~~a~~)) residential upholstered furniture as defined in RCW 70.76.010 or children's product. For the purposes of this subsection, "importer" means the owner of the residential upholstered furniture as defined in RCW 70.76.010 or children's product.

(8) "Phthalates" means di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate (BBP), diisonoyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP).

(9) "Toy" means a product designed or intended by the manufacturer to be used by a child at play.

(10) "Trade association" means a membership organization of persons engaging in a similar or related line of commerce, organized to promote and improve business conditions in that line of commerce and not to engage in a regular business of a kind ordinarily carried on for profit.

(11) "Very bioaccumulative" means having a bioconcentration factor or bioaccumulation factor greater than or equal to five thousand, or if neither are available, having a log Kow greater than 5.0.

(12) "Very persistent" means having a half-life greater than or equal to one of the following:

(a) A half-life in soil or sediment of greater than one hundred eighty days;

(b) A half-life greater than or equal to sixty days in water or evidence of long-range transport.

(13) "Additive TBBPA" means the chemical tetrabromobisphenol A, chemical abstracts service number 79-94-7, as of the effective date of this section, in a form that has not undergone a reactive process and is not covalently bonded to a polymer in a product or product component.

(14) "Decabromodiphenyl ether" means the chemical decabromodiphenyl ether, chemical abstracts service number 1163-19-5, as of the effective date of this section.

(15) "HBCD" means the chemical hexabromocyclododecane, chemical abstracts service number 25637-99-4, as of the effective date of this section.

(16) "IPTPP" means the chemical isopropylated triphenyl phosphate, chemical abstracts service number 68937-41-7, as of the effective date of this section.

(17) "TBB" means the chemical (2-ethylhexyl)-2,3,4,5-tetrabromobenzoate, chemical abstracts service number 183658-27-7, as of the effective date of this section.

(18) "TBPH" means the chemical bis (2-ethylhexyl)-2,3,4,5-tetrabromophthalate, chemical abstracts service number 26040-51-7, as of the effective date of this section.

(19) "TCEP" means the chemical (tris(2-chloroethyl)phosphate); chemical abstracts service number 115-96-8, as of the effective date of this section.

(20) "TCPP" means the chemical tris (1-chloro-2-propyl) phosphate); chemical abstracts service number 13674-84-5, as of the effective date of this section.

(21) "TDCPP" means the chemical (tris(1,3-dichloro-2- propyl)phosphate); chemical abstracts service number 13674-87-8, as of the effective date of this section.

(22) "TPP" means the chemical triphenyl phosphate, chemical abstracts service number 115-86-6, as of the effective date of this section.

(23) "V6" means the chemical bis(chloromethyl) propane-1,3-diyltetrakis (2-chloroethyl) bisphosphate, chemical abstracts service number 385051-10-4, as of the effective date of this section.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70.240 RCW to read as follows:

Beginning July 1, 2017, no manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state children's products or residential upholstered furniture, as defined in RCW 70.76.010, containing any of the following flame retardants in amounts greater than one thousand parts per million in any product component:

(1) TDCPP;

(2) TCEP;

(3) Decabromodiphenyl ether;

(4) HBCD; or

(5) Additive TBBPA.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70.240 RCW to read as follows:

(1) The department shall consider whether the following flame retardants meet the criteria of a chemical of high concern for children:

(a) IPTPP;

(b) TBB;

(c) TBPH;

(d) TCPP;

(e) TPP;

(f) V6.

(2)(a) Within one year of the department adopting a rule that identifies a flame retardant in subsection (1) of this section as a chemical of high concern for children, the department of health, in consultation with the department, must create a stakeholder advisory committee for each flame retardant chemical to provide stakeholder input, expertise, and additional information in the development of recommendations as provided under subsection (4) of this section. All advisory committee meetings must be open to the public.

(b) The advisory committee membership must include, but is not limited to, representatives from: Large and small business sectors; community, environmental, and public health advocacy groups; local governments; affected and interested businesses; and public health agencies.

(c) The department may request state agencies and technical experts to participate. The department of health shall provide technical expertise on human health impacts including: Early childhood and fetal exposure, exposure reduction, and safer substitutes.

(3) When developing policy options and recommendations consistent with subsection (4) of this section, the department must rely on credible scientific evidence and consider information relevant to the hazards based on the quantitative extent of exposures to the chemical under its intended or reasonably anticipated conditions of use. The department of health, in consultation with the department, must include the following:

(a) Chemical name, properties, uses, and manufacturers;

(b) An analysis of available information on the production, unintentional production, uses, and disposal of the chemical;

(c) Quantitative estimates of the potential human and environmental exposures associated with the use and release of the chemical;

(d) An assessment of the potential impacts on human health and the environment resulting from the quantitative exposure estimates referred to in (c) of this subsection;

(e) An evaluation of:

(i) Environmental and human health benefits;

(ii) Economic and social impacts;

(iii) Feasibility;

(iv) Availability and effectiveness of safer substitutes for uses of the chemical;

(v) Consistency with existing federal and state regulatory requirements; and

(f) Recommendations for:

(i) Managing, reducing, and phasing out the different uses and releases of the chemical;

(ii) Minimizing exposure to the chemical;

(iii) Using safer substitutes; and

(iv) Encouraging the development of safer alternatives.

(4)(a) The department of health must submit to the legislature recommendations on policy options for reducing exposure, designating and developing safer substitutes, and restricting or prohibiting the use of the flame retardant chemicals identified in subsection (1) of this section as a chemical of high concern for children.

(b) When the department of health, in consultation with the department, determines that flame retardant chemicals identified in subsection (1) of this section as a chemical of high concern for children should be restricted or prohibited from use in children's products, residential upholstered furniture as defined in RCW 70.76.010, or other commercial products or processes, the department of health must include citations of the peer-reviewed science and other sources of information reviewed and ultimately relied upon in support of the recommendation to restrict or prohibit the chemical.

Sec. 4. RCW 70.240.050 and 2008 c 288 s 7 are each amended to read as follows:

(1) A manufacturer of products that are restricted under this chapter must notify persons that sell the manufacturer's products in this state about the provisions of this chapter no less than ninety days prior to the effective date of the restrictions.

(2) A manufacturer that produces, sells, or distributes a product prohibited from manufacture, sale, or distribution in this state under this chapter shall recall the product and reimburse the retailer or any other purchaser for the product.

(3) A manufacturer of ((~~children's~~)) products in violation of this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the state toxics control account created in RCW 70.l05D.070.

(4) Retailers who unknowingly sell products that are restricted from sale under this chapter are not liable under this chapter.

(5) The sale or purchase of any previously owned products containing a chemical restricted under this chapter made in casual or isolated sales as defined in RCW 82.04.040, or by a nonprofit organization, is exempt from this chapter.

Passed by the House March 8, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 177

[House Bill 2557]

UNUSED SHARED LEAVE--RETURN CRITERIA

AN ACT Relating to the return of unused shared leave; and amending RCW 41.04.665.

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

Sec. 1. RCW 41.04.665 and 2015 3rd sp.s. c 1 s 312 are each amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a)(i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(ii) The employee has been called to service in the uniformed services;

(iii) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services; or

(iv) The employee is a victim of domestic violence, sexual assault, or stalking;

(b) The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequence of domestic violence, sexual assault, 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) 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(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)(a) 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~~)) Unused shared leave may not be returned until one of the following occurs:

(i) The agency head receives from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved((~~.~~)); or

(ii) The employee is released to full-time employment; has not received additional medical treatment for his or her current condition or any other qualifying condition for at least six months; and the employee's doctor has declined, in writing, the employee's request for a statement indicating the employee's condition has been resolved.

(b) If a shared leave account is closed and an employee later has a need to use shared leave due to the same condition listed in the closed account, the agency head must approve a new shared leave request for the employee.

(c) 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 director of financial management may adopt rules as necessary to implement subsection (2) of this section.

Passed by the House February 11, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 178

[Substitute House Bill 2584]

COMMERCIAL MARIJUANA LICENSEES AND APPLICANTS--INFORMATION DISCLOSURE

AN ACT Relating to public disclosure of information submitted to the liquor and cannabis board regarding marijuana product traceability and operations; and amending RCW 42.56.270.

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

Sec. 1. RCW 42.56.270 and 2015 c 274 s 24 are each 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;

(21) Market share data submitted by a manufacturer under RCW 70.95N.190(4);

(22) Financial information supplied to the department of financial institutions or to a portal under RCW 21.20.883, when filed by or on behalf of an

issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under RCW 21.20.880 or when filed by or on behalf of an investor for the purpose of purchasing such securities; ((~~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 RCW 90.56.565(1)(a), and that is in the possession of the department of ecology or any entity with which the department of ecology has shared the notice pursuant to RCW 90.56.565;

(24) Financial institution and retirement account information, and building security plan information, supplied to the liquor and cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345, when filed by or on behalf of a licensee or prospective licensee for the purpose of obtaining, maintaining, or renewing a license to produce, process, transport, or sell marijuana as allowed under chapter 69.50 RCW; and

(25) Marijuana transport information, vehicle and driver identification data, and account numbers or unique access identifiers issued to private entities for traceability system access, submitted by an individual or business to the liquor and cannabis board under the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345 for the purpose of marijuana product traceability. Disclosure to local, state, and federal officials is not considered public disclosure for purposes of this section.

Passed by the House February 15, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 179

[House Bill 2587]

SUPERIOR COURT JUDGES' ASSOCIATION--NAME

AN ACT Relating to the superior court judges' association; amending RCW 2.16.010 and 9.94A.860; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds and declares as follows:

(1) The legislature established the superior court judges' association statutorily in 1933, enacting what is now chapter 2.16 RCW. The purpose of this act is to render consistent the usage of the association's name, amending two sections to remove inconsistent uses of the association's name.

(2) For decades, the association has operated as the superior court judges' association. The association has been referred to by that name in numerous statutes, including: RCW 2.32.180 (which has used that name since 1957); RCW 2.56.150 (which has used that name since 1996); RCW 7.68.801 (which has used that name since 2013); RCW 9.94A.8673 (which has used that name since 2008); RCW 26.19.025 (which has used that name since 2007); RCW 70.96A.350 (which has used that name since 2002); and RCW 74.13.368 (which has used that name since 2009). In at least one instance in 2011, the association sued under the name superior court judges' association. Although the legislature

initially used a variant of the name in its 1933 act and such a variation appears in one other statute, through long and regular usage, the association has come to be known as the superior court judges' association.

Sec. 2. RCW 2.16.010 and 1933 ex.s. c 58 s 1 are each amended to read as follows:

All the judges of the superior courts of the state of Washington are hereby associated under the name of the ((~~association of the~~)) superior court judges' association of the state of Washington.

Sec. 3. RCW 9.94A.860 and 2011 1st sp.s. c 40 s 36 are each amended to read as follows:

(1) The sentencing guidelines commission is hereby created, located within the office of financial management. Except as provided in RCW 9.94A.875, the commission shall serve to advise the governor and the legislature as necessary on issues relating to adult and juvenile sentencing. The commission may meet, as necessary, to accomplish these purposes within funds appropriated.

(2) The commission consists of twenty voting members, one of whom the governor shall designate as chairperson. With the exception of ex officio voting members, the voting members of the commission shall be appointed by the governor, or his or her designee, subject to confirmation by the senate.

(3) The voting membership consists of the following:

(a) The head of the state agency having general responsibility for adult correction programs, as an ex officio member;

(b) The director of financial management or designee, as an ex officio member;

(c) The chair of the indeterminate sentence review board, as an ex officio member;

(d) The head of the state agency, or the agency head's designee, having responsibility for juvenile corrections programs, as an ex officio member;

(e) Two prosecuting attorneys;

(f) Two attorneys with particular expertise in defense work;

(g) Four persons who are superior court judges;

(h) One person who is the chief law enforcement officer of a county or city;

(i) Four members of the public who are not prosecutors, defense attorneys, judges, or law enforcement officers, one of whom is a victim of crime or a crime victims' advocate;

(j) One person who is an elected official of a county government, other than a prosecuting attorney or sheriff;

(k) One person who is an elected official of a city government;

(l) One person who is an administrator of juvenile court services.

In making the appointments, the governor shall endeavor to assure that the commission membership includes adequate representation and expertise relating to both the adult criminal justice system and the juvenile justice system. In making the appointments, the governor shall seek the recommendations of Washington prosecutors in respect to the prosecuting attorney members, of the Washington state bar association in respect to the defense attorney members, of the ((~~association of~~)) superior court judges' association in respect to the members who are judges, of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer, of the Washington state

association of counties in respect to the member who is a county official, of the association of Washington cities in respect to the member who is a city official, of the office of crime victims advocacy and other organizations of crime victims in respect to the member who is a victim of crime or a crime victims' advocate, and of the Washington association of juvenile court administrators in respect to the member who is an administrator of juvenile court services.

(4)(a) All voting members of the commission, except ex officio voting members, shall serve terms of three years and until their successors are appointed and confirmed.

(b) The governor shall stagger the terms of the members appointed under subsection (3)(j), (k), and (l) of this section by appointing one of them for a term of one year, one for a term of two years, and one for a term of three years.

(5) The speaker of the house of representatives and the president of the senate may each appoint two nonvoting members to the commission, one from each of the two largest caucuses in each house. The members so appointed shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first.

(6) The members of the commission may be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislative members may be reimbursed by their respective houses as provided under RCW 44.04.120. Except for the reimbursement of travel expenses, members shall not be compensated.

Passed by the House February 11, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 180

[Engrossed Substitute House Bill 2591]

DEPENDENCY HEARINGS--NOTICE TO FOSTER PARENTS--REQUIREMENTS

AN ACT Relating to notifying foster parents of dependency hearings and their opportunity to be heard in those hearings; and amending RCW 13.34.096 and 13.34.820.

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

Sec. 1. RCW 13.34.096 and 2009 c 520 s 25 are each amended to read as follows:

(1) The department or supervising agency shall provide the child's foster parents, preadoptive parents, or other caregivers with timely and adequate notice of their right to be heard prior to each proceeding held with respect to the child in juvenile court under this chapter. For purposes of this section, "timely and adequate notice" means notice at the time the department would be required to give notice to parties to the case and by any means reasonably certain of notifying the foster parents, preadoptive parents, or other caregivers, including but not limited to written, telephone, or in person oral notification. For emergency hearings, the department shall give notice to foster parents, preadoptive parents, or other caregivers as soon as is practicable. For six-month review and annual permanency hearings, the department shall give notice to foster parents upon placement or as soon as practicable.

(2) The court shall establish and include in the court record after every hearing for which the department or supervising agency is required to provide notice to the child's foster parents, preadoptive parents, and caregivers whether the department provided adequate and timely notice, whether a caregiver's report was received by the court, and whether the court provided the child's foster parents, preadoptive parents, or caregivers with an opportunity to be heard in court. For purposes of this section, "caregiver's report" means a form provided by the department of social and health services to a child's foster parents, preadoptive parents, or caregivers that provides an opportunity for those individuals to share information about the child with the court before a court hearing. A caregiver's report shall not include information related to a child's biological parent that is not directly related to the child's well-being.

(3) Absent exigent circumstances, the department shall provide the child's foster family home notice of expected placement changes as required by RCW 74.13.300.

(4) The rights to notice and to be heard apply only to persons with whom a child has been placed by the department ((~~before shelter care~~)) or supervising agency and who are providing care to the child at the time of the proceeding. This section shall not be construed to grant party status to any person solely on the basis of such notice and right to be heard.

Sec. 2. RCW 13.34.820 and 2007 c 410 s 6 are each amended to read as follows:

(1) The administrative office of the courts, in consultation with the attorney general's office and the department of social and health services, shall compile an annual report, providing information about cases that fail to meet statutory guidelines to achieve permanency for dependent children.

(2) The administrative office of the courts shall submit the annual report required by this section to appropriate committees of the legislature by December 1st of each year, beginning on December 1, 2007. The administrative office of the courts shall also submit the annual report to a representative of the foster parent association of Washington state.

(3) The annual report shall include information regarding whether foster parents received timely notification of dependency hearings as required by RCW 13.34.096 and 13.34.145 and whether caregivers submitted reports to the court.

Passed by the House February 12, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 181

[Substitute House Bill 2644]

ANIMAL CRUELTY--ANIMAL FORFEITURE--VARIOUS PROVISIONS

AN ACT Relating to animal forfeiture in animal cruelty cases; and amending RCW 16.52.085 and 16.52.200.

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

Sec. 1. RCW 16.52.085 and 2011 c 172 s 3 are each amended to read as follows:

(1) If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has violated this chapter or a person owns, cares for, or resides with an animal in violation of an order issued under RCW 16.52.200(4) and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a suitable place for feeding and care, or may place the animal under the custody of an animal care and control agency. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition.

(2) If a law enforcement officer or an animal control officer has probable cause to believe a violation of this chapter has occurred, the officer may authorize an examination of a domestic animal allegedly neglected or abused in violation of this chapter by a veterinarian to determine whether the level of neglect or abuse in violation of this chapter is sufficient to require removal of the animal. This section does not condone illegal entry onto private property.

(3) Any owner whose domestic animal is removed pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail if the owner is known. In making the decision to remove an animal pursuant to this chapter, the officer shall make a good faith effort to contact the animal's owner before removal.

(4) The agency having custody of the animal may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. A custodial agency may euthanize severely injured, diseased, or suffering animals at any time. An owner may prevent the animal's destruction or adoption by: (a) Petitioning the district court of the county where the animal was seized for the animal's immediate return subject to court-imposed conditions, or (b) posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the custodial agency still has custody of the animal when the bond or security expires, the animal shall become the agency's property unless the court orders an alternative disposition. If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to post or renew a bond or security for the agency's continuing costs for the animal's care. When a court has prohibited the owner from owning, caring for, or residing with a similar animal under RCW 16.52.200(4), the agency having custody of the animal may assume ownership upon seizure and the owner may not prevent the animal's destruction or adoption by petitioning the court or posting a bond.

(5) If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the district court of the county where the animal was removed for the animal's return. The petition shall be filed with the court((~~, with~~)). Copies of the petition must be served ((~~to~~)) on the law enforcement or animal care and control agency responsible for removing the animal and to the prosecuting attorney. If the court grants the petition, the agency which seized the animal must ((~~deliver~~)) surrender the animal to the owner at no cost to the owner.

If a criminal action is filed after the petition is filed but before the ((~~animal is returned,~~)) hearing on the petition, then the petition shall be joined with the criminal matter.

(6) In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.

(7) Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

Sec. 2. RCW 16.52.200 and 2011 c 172 s 4 are each amended to read as follows:

(1) The sentence imposed for a misdemeanor or gross misdemeanor violation of this chapter may be deferred or suspended in accordance with RCW 3.66.067 and 3.66.068, however the probationary period shall be two years.

(2) In case of multiple misdemeanor or gross misdemeanor convictions, the sentences shall be consecutive, however the probationary period shall remain two years.

(3) In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement or animal care and control authorities under the provisions of this chapter if any one of the animals involved dies as a result of a violation of this chapter or if the defendant has a prior conviction under this chapter. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the animal's treatment to have been severe and likely to reoccur.

(4) Any person convicted of animal cruelty shall be prohibited from owning, caring for, or residing with any similar animals for a period of time as follows:

(a) Two years for a first conviction of animal cruelty in the second degree under RCW 16.52.207;

(b) Permanently for a first conviction of animal cruelty in the first degree under RCW 16.52.205;

(c) Permanently for a second or subsequent conviction of animal cruelty, except as provided in subsection (5) of this section.

(5) If a person has no more than two convictions of animal cruelty and each conviction is for animal cruelty in the second degree, the person may petition the sentencing court in which the most recent animal cruelty conviction occurred, for a restoration of the right to own or possess a similar animal five years after the date of the second conviction. In determining whether to grant the petition, the court shall consider, but not be limited to, the following:

(a) The person's prior animal cruelty in the second degree convictions;

(b) The type of harm or violence inflicted upon the animals;

(c) Whether the person has completed the conditions imposed by the court as a result of the underlying convictions;

(d) Whether the person complied with the prohibition on owning, caring for, or residing with similar animals; and

(e) Any other matters the court finds reasonable and material to consider in determining whether the person is likely to abuse another animal.

The court may delay its decision on forfeiture under subsection (3) of this section until the end of the probationary period.

(6) In addition to fines and court costs, the defendant, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter

by law enforcement agencies, animal care and control agencies, or authorized private or public entities involved with the care of the animals. Reasonable costs include expenses of the investigation, and the animal's care, euthanization, or adoption.

(7) If convicted, the defendant shall also pay a civil penalty of one thousand dollars to the county to prevent cruelty to animals. These funds shall be used to prosecute offenses under this chapter and to care for forfeited animals pending trial.

(8) If a person violates the prohibition on owning, caring for, or residing with similar animals under subsection (4) of this section, that person:

(a) Shall pay a civil penalty of one thousand dollars for the first violation;

(b) Shall pay a civil penalty of two thousand five hundred dollars for the second violation; and

(c) Is guilty of a gross misdemeanor for the third and each subsequent violation.

(9) As a condition of the sentence imposed under this chapter or RCW 9.08.070 through 9.08.078, the court may also order the defendant to participate in an available animal cruelty prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

(10) Nothing in this section limits the authority of a law enforcement officer, animal control officer, custodial agency, or court to remove, adopt, euthanize, or require forfeiture of an animal under RCW 16.52.085.

Passed by the House March 9, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 182

[House Bill 2663]

SUNSHINE COMMITTEE RECOMMENDATIONS--OBSOLETE DISCLOSURE EXEMPTIONS

AN ACT Relating to sunshine committee recommendations to repeal obsolete exemptions to public disclosure provisions; and repealing RCW 42.56.480 and 66.16.090.

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

NEW SECTION. **Sec. 1.** The following acts or parts of acts are each repealed:

(1) RCW 42.56.480 (Inactive programs) and 2005 c 274 s 428; and

(2) RCW 66.16.090 (Record of individual purchases confidential—Penalty for disclosure) and 1933 ex.s. c 62 s 89.

Passed by the House February 11, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 183

[Second Substitute House Bill 2726]

CONTINUING CARE RETIREMENT COMMUNITIES

AN ACT Relating to the regulation of continuing care retirement communities; adding a new chapter to Title 18 RCW; and providing an effective date.

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

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Application fee" means a fee charged to an individual or individuals prior to the execution of a residency agreement, apart from an entrance fee.

(2) "Care" means nursing, medical, or other health-related services, protection or supervision, assistance with activities of daily living, or any combination of those services.

(3) "Continuing care" means directly providing or indirectly making available, upon payment of an entrance fee and under a residency agreement, housing and care for a period of greater than one year.

(4) "Continuing care retirement community" means an entity that agrees to provide continuing care to a resident under a residency agreement. "Continuing care retirement community" does not include an assisted living facility licensed under chapter 18.20 RCW that does not directly, or through a contractual arrangement with a separately owned and incorporated skilled nursing facility, offer or provide services under chapter 74.42 RCW.

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

(6) "Entrance fee" means an initial or deferred transfer to a continuing care retirement community of a sum of money or other property made or promised to be made as full or partial consideration for acceptance of one or more residents in a continuing care retirement community. "Entrance fee" does not include deposits of ten thousand dollars or less or any amount that is based on rental or lease payments of one month or more.

(7) "Prospective resident" means a person who has completed an application for admission to a continuing care retirement community and makes a refundable deposit to reserve a unit, excluding applicable administrative fees.

(8) "Residency agreement" means a contract between a continuing care retirement community and a resident for the provision of continuing care for a period of greater than one year.

(9) "Resident" means a person who enters into a residency agreement with a continuing care retirement community or who is designated in a residency agreement to be a person being provided with continuing care.

NEW SECTION. **Sec. 2.** A person or entity must be registered by the department under this chapter prior to:

(1) Operating a continuing care retirement community;

(2) Entering into a residency agreement with a prospective resident;

(3) Soliciting a prospective resident to pay an application fee or executing a residency agreement; or

(4) Collecting an entrance fee.

NEW SECTION. **Sec. 3.** (1) An applicant for a registration as a continuing care retirement community must submit the following materials to the department:

(a) A written application to the department providing all necessary information on a form provided by the department;

(b) Information about the licensed assisted living facility component of the continuing care retirement community and, if the continuing care retirement community operates a nursing home, information about that component;

(c) Copies of any residency agreements that the continuing care retirement community intends to use for the certification period;

(d) A copy of the disclosure statement that includes current information required by section 6 of this act;

(e)(i) Except as provided in (e)(ii) of this subsection, copies of audited financial statements for the two most recent fiscal years. The audited financial statement for the most current period may not have been prepared more than eighteen months prior to the date that the continuing care retirement community applied for its current registration;

(ii) If the continuing care retirement community:

(A) Has obtained financing, but has been in operation less than two years, a copy of the audited financial statement for the most current period, if available, and an independent accountant's report opinion letter that has evaluated the financial feasibility of the continuing care retirement community; or

(B) Has not obtained financing, a summary of the actuarial analysis for the new continuing care retirement community stating that the continuing care retirement community is in satisfactory actuarial balance;

(f) An attestation by a management representative of the continuing care retirement community that the continuing care retirement community is in compliance with the disclosure notification requirements of section 6 of this act; and

(g) Payment of any registration fees associated with the department's cost of registering continuing care retirement communities.

(2) The department shall base its decision to issue a registration on the completeness of the application. If an application is incomplete, the department shall inform the applicant and give the applicant an opportunity to supplement its submission. An applicant may appeal a decision of the department to deny an application for registration.

(3) The department shall issue the registration within sixty days of the receipt of a complete application, payment of fees, submission of disclosures, residency agreements, and the attestation. The department's failure to timely issue a registration may not cause a delay in the change of ownership and ongoing operation of the continuing care retirement community.

(4) Registration is valid for two years.

(5) Registration is not transferable.

(6) Materials submitted pursuant to this section are not subject to disclosure under the public records act, chapter 42.56 RCW.

NEW SECTION. **Sec. 4.** (1) The department shall:

(a) Register an entity that submits a complete application that includes all of the materials required in section 3 of this act;

(b) Review the disclosure statements submitted by applicants for an initial or renewal registration to operate a continuing care retirement community for completeness;

(c) Establish and collect a fee that is sufficient to cover the department's costs associated with administering the requirements of this chapter; and

(d) Create and maintain an online listing that is readily available to the public of the names and addresses of continuing care retirement communities that are registered with the department.

(2) The department's registration activities consist of reviewing an application for completeness and do not signify that the department has otherwise issued a certification or license to the continuing care retirement community or any of its component parts.

NEW SECTION. **Sec. 5.** An entity that is not registered with the department may not represent itself, or refer to itself in advertising and marketing materials as a "registered continuing care retirement community" or "continuing care retirement community," as defined by this chapter.

NEW SECTION. **Sec. 6.** (1) A continuing care retirement community must prepare a disclosure statement that includes the following information:

(a) The names of the individual or individuals who constitute the continuing care retirement community and each of the officers, directors, trustees, or managing general partners of the legal entity and a description of each individual's duties on behalf of the legal entity;

(b) The business address of the continuing care retirement community;

(c) The type of ownership, the names of the continuing care retirement community's owner and operator, and the names of any affiliated facilities;

(d) The names and business addresses of any individual having any more than a ten percent direct or indirect ownership or beneficial interest in the continuing care retirement community, the percentage of the direct or indirect ownership or beneficial interest, and a description of each individual's interest in or occupation with the continuing care retirement community;

(e) The location and general description of the continuing care retirement community, including:

(i) The year the continuing care retirement community opened;

(ii) The location and number of living units, licensed assisted living facility beds, and nursing beds considered part of the continuing care retirement community;

(iii) The average annual occupancy rate for the prior three fiscal years for each type of unit or bed; and

(iv) Any other care facilities owned or operated by the owner of the continuing care retirement community;

(f) An explanation of the continuing care retirement community's policy regarding placement in off-campus assisted living facilities and nursing homes and the payment responsibilities of the continuing care retirement community and the resident in the event of off-campus placement;

(g) The number of residents who were placed off-site in the previous three years for assisted living and nursing services due to the lack of available capacity at the continuing care retirement community;

(h) An explanation of all types of fees charged by the continuing care retirement community, how each type of fee is determined, current ranges for each type of fee, and refund policies for each type of fee;

(i) Statements describing the continuing care retirement community's policy for notifying residents of fee increases, including the amount of prior notification that is provided;

(j) Statements describing the continuing care retirement community's policy related to changes in levels of care and any associated fees;

(k) Statements describing the continuing care retirement community's policy for the termination of a contract, including the return of any fees or deposits pursuant to the residency agreement;

(l) A description of services provided or proposed to be provided by the continuing care retirement community under its residency agreements, including:

(i) The extent to which care, long-term care, or health-related services are provided. If the services are provided at a facility that is not certified as part of the continuing care retirement community's campus, the disclosure statement must identify the location where the services are provided and any additional fees associated with the services; and

(ii) The services made available by the continuing care retirement community for an additional charge; and

(m)(i) The continuing care retirement community's two most recent annual audited financial statements prepared in accordance with generally accepted accounting principles by a certified public accountant. The most recently audited financial statement may not have been prepared more than eighteen months prior to the date that the continuing care retirement community applied for its current registration; or

(ii) If the continuing care retirement community is new and:

(A) Has obtained financing, but does not have two years of audited financial statements as required under (m)(i) of this subsection, an independent accountant's report opinion letter that has evaluated the financial feasibility of the continuing care retirement community; or

(B) Has not obtained financing, a summary of the actuarial analysis for the new continuing care retirement community stating that the continuing care retirement community is in satisfactory actuarial balance.

(2) The disclosure statement must be written in understandable language and a clear format.

(3) Prior to entering into a residency agreement with, or accepting an entrance fee from, any prospective resident, a continuing care retirement community must deliver to the prospective resident a copy of the disclosure statement most recently submitted to the department.

NEW SECTION. **Sec. 7.** (1) A prospective resident may visit each of the different care levels of the continuing care retirement community, assisted living facility, and nursing home, and may inspect the most recent inspection reports and findings of complaint investigations related to the assisted living and nursing home components covering a period of not less than two years, as available, prior to signing a residency agreement.

(2) All residents of a continuing care retirement community in a living unit that is not used exclusively for assisted living or nursing services have the following expectations:

(a) Transparency regarding the financial stability of the provider operating the facility;

(b) Timely notifications of developments affecting the facility, including ownership changes of the provider operating the facility, a change in the financial condition of the provider operating the facility, and construction and renovation at the facility. The management of the continuing care retirement community may deem certain information to be confidential if it is of a sensitive nature such that disclosure of the information would materially harm the position of the continuing care retirement community;

(c) Reasonable accommodations for persons with disabilities;

(d) The opportunity to participate freely in the operation of independent resident organizations and associations;

(e) The opportunity to seek independent counsel review of all contracts, including residency agreements, prior to executing the residency agreement; and

(f) The assurance that all requests for donations, contributions, and gifts, when made by residents to the continuing care retirement community, are voluntary and may not be used as a condition of residency.

(3) The continuing care retirement community shall:

(a) Provide a copy of the expectations specified in this section to each prospective resident prior to signing a residency agreement; and

(b) Make copies of the expectations specified in this section publicly available in areas accessible to the independent residents and visitors. The copies of the expectations must also state that independent residents have the right, as an affected party, to file a complaint with the attorney general for violations of this chapter that may constitute a violation of the consumer protection act and contain information explaining how and where a complaint may be filed.

NEW SECTION. **Sec. 8.** (1) The legislature finds that the violation of the title protection requirements of section 5 of this act, the failure of a continuing care retirement community to register with the department under section 2 of this act, the failure of a continuing care retirement community to comply with the disclosure statement delivery and content requirements under section 6 of this act, and the failure of a continuing care retirement community to comply with the resident expectations established under section 7 of this act are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of the title protection requirements under section 5 of this act, registration requirement under section 2 of this act, the disclosure statement delivery and content requirements under section 6 of this act, and the resident expectations requirements under section 7 of this act are not reasonable in relation to the development and preservation of business and are 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.

(2) The attorney general shall provide notice to the management of the continuing care retirement community of submitted complaints including the name of the complainant to allow the community to take corrective action. Except for violations of the title protection requirements of section 5 of this act and the failure of a continuing care retirement community to register with the department under section 2 of this act, the attorney general shall limit its application of the consumer protection act in subsection (1) of this section to those cases in which a pattern of complaints, submitted by affected parties, or other activity that, when considered together, demonstrate a pattern of similar

conduct that, without enforcement, likely establishes an unfair or deceptive act in trade or commerce and an unfair method of competition.

NEW SECTION. **Sec. 9.** Nothing in this chapter:

(1) Affects any of the requirements and standards associated with a license to operate an assisted living facility under chapter 18.20 RCW or a nursing home under chapter 18.51 RCW; and

(2) Applies to any of the provisions of chapter 74.46 or 70.38 RCW.

NEW SECTION. **Sec. 10.** The provisions of this chapter apply prospectively to acts and omissions that occur after the effective date of this section.

NEW SECTION. **Sec. 11.** This act takes effect July 1, 2017.

NEW SECTION. **Sec. 12.** Sections 1 through 10 of this act constitute a new chapter in Title 18 RCW.

Passed by the House February 12, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 184

[Engrossed House Bill 2749]

CHILD WELFARE SERVICES--PERFORMANCE-BASED CONTRACTING--IMPLEMENTATION DATE

AN ACT Relating to the extension of dates concerning measuring performance and performance-based contracting of the child welfare system; and amending RCW 74.13.360, 74.13.370, and 74.13.372.

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

Sec. 1. RCW 74.13.360 and 2013 c 205 s 4 are each amended to read as follows:

(1) No later than December 30, ((~~2016~~)) 2019:

(a) In the demonstration sites selected under RCW 74.13.368(4)(a), child welfare services shall be provided by supervising agencies with whom the department has entered into performance-based contracts. Supervising agencies may enter into subcontracts with other licensed agencies; and

(b) Except as provided in subsection (3) of this section, and notwithstanding any law to the contrary, the department may not directly provide child welfare services to families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a).

(2) No later than December 30, ((~~2016~~)) 2019, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a), the department is responsible for only the following:

(a) Monitoring the quality of services for which the department contracts under this chapter;

(b) Ensuring that the services are provided in accordance with federal law and the laws of this state, including the Indian child welfare act;

(c) Providing child protection functions and services, including intake and investigation of allegations of child abuse or neglect, emergency shelter care functions under RCW 13.34.050, and referrals to appropriate providers; and

(d) Issuing licenses pursuant to chapter 74.15 RCW.

(3) No later than December 30, ((~~2016~~)) 2019, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a), the department may provide child welfare services only:

(a) For the limited purpose of establishing a control or comparison group as deemed necessary by the child welfare transformation design committee, with input from the Washington state institute for public policy, to implement the demonstration sites selected and defined pursuant to RCW 74.13.368(4)(a) in which the performance in achieving measurable outcomes will be compared and evaluated pursuant to RCW 74.13.370; or

(b) In an emergency or as a provider of last resort. The department shall adopt rules describing the circumstances under which the department may provide those services. For purposes of this section, "provider of last resort" means the department is unable to contract with a private agency to provide child welfare services in a particular geographic area or, after entering into a contract with a private agency, either the contractor or the department terminates the contract.

(4) For purposes of this chapter, on and after September 1, 2010, performance-based contracts shall be structured to hold the supervising agencies accountable for achieving the following goals in order of importance: Child safety; child permanency, including reunification; and child well-being.

(5) A federally recognized tribe located in this state may enter into a performance-based contract with the department to provide child welfare services to Indian children whether or not they reside on a reservation. Nothing in this section prohibits a federally recognized Indian tribe located in this state from providing child welfare services to its members or other Indian children pursuant to existing tribal law, regulation, or custom, or from directly entering into agreements for the provision of such services with the department, if the department continues to otherwise provide such services, or with federal agencies.

Sec. 2. RCW 74.13.370 and 2012 c 205 s 9 are each amended to read as follows:

(1) Based upon the recommendations of the child welfare transformation design committee, including the two sets of outcomes developed by the committee under RCW 74.13.368(4)(b), the Washington state institute for public policy is to conduct a review of measurable effects achieved by the supervising agencies and compare those measurable effects with the existing services offered by the state. The report on the measurable effects shall be provided to the governor and the legislature no later than April 1, 2018.

(2) No later than December 1, 2014, the Washington state institute for public policy shall provide the legislature and the governor an initial report on the department's conversion to the use of performance-based contracts as provided in RCW 74.13B.020 and 74.13B.030. No later than ((~~June 30, 2016~~)) April 1, 2023, the Washington state institute for public policy shall provide the

governor and the legislature with a second report on the extent to which the use of performance-based contracting has resulted in:

(a) Increased use of evidence-based, research-based, and promising practices; and

(b) Improvements in outcomes for children, including child safety, child permanency, including reunification, and child well-being.

(3) The department and network administrators shall respond to the Washington institute for public policy's request for data and other information with which to complete these reports in a timely manner.

(4) The Washington state institute for public policy must consult with a university-based child welfare research entity to evaluate performance-based contracting.

Sec. 3. RCW 74.13.372 and 2012 c 205 s 11 are each amended to read as follows:

Not later than June 1, ((~~2018~~)) 2023, the governor shall, based on the report by the Washington state institute for public policy, determine whether to expand chapter 520, Laws of 2009 to the remainder of the state or terminate chapter 520, Laws of 2009. The governor shall inform the legislature of his or her decision within seven days of the decision. The department shall, regardless of the decision of the governor regarding the delivery of child welfare services, continue to purchase services through the use of performance-based contracts.

Passed by the House March 7, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 185

[Substitute House Bill 2765]

PARK RANGERS--POLICE POWER--SCOPE

AN ACT Relating to clarifying the limited authority of park rangers; amending RCW 79A.05.160; and adding a new section to chapter 79A.05 RCW.

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

Sec. 1. RCW 79A.05.160 and 2011 c 320 s 15 are each amended to read as follows:

(1) ((~~The members of~~)) Designated officers, employed by the commission ((~~and its designated employees~~)), shall be vested with police powers to enforce the laws of this state:

(a) Within the boundaries of any state park, including lands owned, managed, or comanaged by the commission under lease or other agreement;

(b) In winter recreation facilities established and administered by the commission pursuant to RCW 79A.05.225(1)(a);

(c) On public roadways and public waterways bisecting the contiguous borders of any state park, including lands owned, managed, or comanaged by the commission under lease or other agreement;

(d) Upon the prior written consent of the sheriff or chief of police in whose primary territorial jurisdiction the exercise of the powers occur;

(e) In response to the request of a peace officer with enforcement authority; and

(f) When the officer is in fresh pursuit for an offense committed in the presence of the officer while the officer had police powers as specified in (a) through (e) of this subsection.

(2) The director may, under the provisions of RCW 7.84.140, enter into an agreement allowing ((~~employees~~)) officers of the department of natural resources ((~~and~~)), the department of fish and wildlife, and tribal law enforcement agencies on contiguous or comanaged property, to enforce certain civil infractions created under this title.

NEW SECTION. **Sec. 2.** A new section is added to chapter 79A.05 RCW to read as follows:

When physical injury to a person or substantial damage to property occurs, or is about to occur, within the presence of an officer of the commission designated with police powers pursuant to RCW 79A.05.160, the designated officer is authorized to take such action as is reasonably necessary to prevent physical injury to a person or substantial damage to property or prevent further injury to a person or further substantial damage to property. A designated officer shall be immune from civil liability for damages arising out of the action of the designated officer to prevent physical injury to a person or substantial damage to property or prevent further injury to a person or further substantial damage to property, unless it is shown that the designated officer acted with gross negligence or bad faith.

Passed by the House February 15, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 186

[House Bill 2773]

CORONERS--ARREST WARRANT AUTHORITY

AN ACT Relating to repealing the warrant authority of coroners; amending RCW 36.24.100; and repealing RCW 36.24.110 and 36.24.120.

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

Sec. 1. RCW 36.24.100 and 1963 c 4 s 36.24.100 are each amended to read as follows:

If the jury finds that the person was killed and the party committing the homicide is ascertained by the inquisition, but is not in custody, the coroner ((~~shall issue a warrant for the arrest of the person charged, returnable forthwith to the nearest magistrate~~)) must deliver the findings of the jury and all documents, testimony, records generated, possessed, or used during the inquest to the prosecuting attorney of the county where the inquest was held.

NEW SECTION. **Sec. 2.** The following acts or parts of acts are each repealed:

(1) RCW 36.24.110 (Form of warrant) and 2009 c 549 s 4037 & 1963 c 4 s 36.24.110; and

(2) RCW 36.24.120 (Service of warrant) and 1963 c 4 s 36.24.120.

Passed by the House February 11, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 187

[Engrossed Substitute House Bill 2785]

WOODSTOVES--INSTALLATION AND USE--EMERGENCY POWER OUTAGES

AN ACT Relating to ensuring that restrictions on the use of solid fuel burning devices do not prohibit the installation or replacement of solid fuel burning devices or the use of these devices during temporary outages of other sources of heat; and amending RCW 70.94.473.

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

Sec. 1. RCW 70.94.473 and 2012 c 219 s 1 are each amended to read as follows:

(1) Any person in a residence or commercial establishment which has an adequate source of heat without burning wood shall:

(a) Not burn wood in any solid fuel burning device whenever the department has determined under RCW 70.94.715 that any air pollution episode exists in that area;

(b) Not burn wood in any solid fuel burning device except those which are either Oregon department of environmental quality phase II or United States environmental protection agency certified or certified by the department under RCW 70.94.457(1) or a pellet stove either certified or issued an exemption by the United States environmental protection agency in accordance with Title 40, Part 60 of the code of federal regulations, in the geographical area and for the period of time that a first stage of impaired air quality has been determined, by the department or any authority, for that area.

(i) A first stage of impaired air quality is reached when forecasted meteorological conditions are predicted to cause fine particulate levels to exceed thirty-five micrograms per cubic meter, measured on a twenty-four hour average, within forty-eight hours, except for areas of fine particulate nonattainment or areas at risk for fine particulate nonattainment;

(ii) A first stage burn ban for impaired air quality may be called for a county containing fine particulate nonattainment areas or areas at risk for fine particulate nonattainment, and when feasible only for the necessary portions of the county, when forecasted meteorological conditions are predicted to cause fine particulate levels to reach or exceed thirty micrograms per cubic meter, measured on a twenty-four hour average, within seventy-two hours; and

(c)(i) Not burn wood in any solid fuel burning device in a geographical area and for the period of time that a second stage of impaired air quality has been determined by the department or any authority, for that area. A second stage of impaired air quality is reached when a first stage of impaired air quality has been in force and has not been sufficient to reduce the increasing fine particulate pollution trend, fine particulates are at an ambient level of twenty-five micrograms per cubic meter measured on a twenty-four hour average, and forecasted meteorological conditions are not expected to allow levels of fine particulates to decline below twenty-five micrograms per cubic meter for a

period of twenty-four hours or more from the time that the fine particulates are measured at the trigger level.

(ii) A second stage burn ban may be called without calling a first stage burn ban only when all of the following occur and shall require the department or the local air pollution control authority calling a second stage burn ban under this subsection to comply with the requirements of subsection (3) of this section:

(A) Fine particulate levels have reached or exceeded twenty-five micrograms per cubic meter, measured on a twenty-four hour average;

(B) Meteorological conditions have caused fine particulate levels to rise rapidly;

(C) Meteorological conditions are predicted to cause fine particulate levels to exceed the thirty-five micrograms per cubic meter, measured on a twenty-four hour average, within twenty-four hours; and

(D) Meteorological conditions are highly likely to prevent sufficient dispersion of fine particulate.

(iii) In fine particulate nonattainment areas or areas at risk for fine particulate nonattainment, a second stage burn ban may be called for the county containing the nonattainment area or areas at risk for nonattainment, and when feasible only for the necessary portions of the county, without calling a first stage burn ban only when (c)(ii)(A), (B), and (D) of this subsection have been met and meteorological conditions are predicted to cause fine particulate levels to reach or exceed thirty micrograms per cubic meter, measured on a twenty-four hour average, within twenty-four hours.

(2) Actions of the department and local air pollution control authorities under this section shall preempt actions of other state agencies and local governments for the purposes of controlling air pollution from solid fuel burning devices, except where authorized by chapter 199, Laws of 1991.

(3)(a) The department or any local air pollution control authority that has called a second stage burn ban under the authority of subsection (1)(c)(ii) of this section shall, within ninety days, prepare a written report describing:

((~~(a)~~)) (i) The meteorological conditions that resulted in their calling the second stage burn ban;

((~~(b)~~)) (ii) Whether the agency could have taken actions to avoid calling a second stage burn ban without calling a first stage burn ban; and

((~~(c)~~)) (iii) Any changes the department or authority is making to its procedures of calling first stage and second stage burn bans to avoid calling a second stage burn ban without first calling a first stage burn ban.

(b) After consulting with affected parties, the department shall prescribe the format of such a report and may also require additional information be included in the report. All reports shall be sent to the department and the department shall keep the reports on file for not less than five years and available for public inspection and copying in accordance with RCW 42.56.090.

(4) For the purposes of chapter 219, Laws of 2012, an area at risk for nonattainment means an area where the three-year average of the annual ninety-eighth percentile of twenty-four hour fine particulate values is greater than twenty-nine micrograms per cubic meter, based on the years 2008 through 2010 monitoring data.

(5)(a) Nothing in this section restricts a person from installing or repairing a certified solid fuel burning device approved by the department under the

program established under RCW 70.94.457 in a residence or commercial establishment or from replacing a solid fuel burning device with a certified solid fuel burning device. Nothing in this section restricts a person from burning wood in a solid fuel burning device, regardless of whether a burn ban has been called, if there is an emergency power outage. In addition, for the duration of an emergency power outage, nothing restricts the use of a solid fuel burning device or the temporary installation, repair, or replacement of a solid fuel burning device to prevent the loss of life, health, or business.

(b) For the purposes of this subsection, an emergency power outage includes:

(i) Any natural or human-caused event beyond the control of a person that leave the person's residence or commercial establishment temporarily without an adequate source of heat other than the solid fuel burning device; or

(ii) A natural or human-caused event for which the governor declares an emergency in an area under chapter 43.06 RCW, including a public disorder, disaster, or energy emergency under RCW 43.06.010(12).

Passed by the House February 15, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 188

[Second Substitute House Bill 2791]

INCARCERATED OFFENDERS--STATEWIDE REENTRY COUNCIL

AN ACT Relating to the Washington statewide reentry council; reenacting and amending RCW 41.06.070; adding a new chapter to Title 43 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** The legislature finds that the cycle of recidivism warrants a closer examination of our criminal justice system, correctional systems, and community services in Washington. Over ninety-five percent of persons in prison will return to the community, and more than half of those persons will reoffend and be reincarcerated in today's system. This high rate of recidivism results in more crimes, more victims, more prisons, and more trauma within families and communities. We can do better for the people of Washington.

The legislature intends to establish the Washington statewide reentry council to develop collaborative and cooperative relationships between the criminal justice system, victims and their families, impacted individuals and their families, and service providers, with the purpose of improving public safety and outcomes for people reentering the community from incarceration.

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

(1) "Council" means the Washington statewide reentry council.

(2) "Department" means the department of commerce.

NEW SECTION. **Sec. 3.** (1) Subject to the availability of amounts appropriated for this specific purpose, the Washington statewide reentry council

is created and located within the department for the purpose of promoting successful reentry of offenders after incarceration.

(2) Through the executive director that may be appointed by the council, the department shall administer the council by:

(a) Providing the council and its executive director use of the department's facilities; and

(b) Managing grants and other funds received, used, and disbursed by the council.

(3) The department may not designate additional full-time staff to the administration of the council beyond the executive director.

NEW SECTION. **Sec. 4.** (1) The council comprises fifteen members appointed by the governor.

(2) The governor must create a membership that includes:

(a)(i) Representatives of: The department of corrections; the juvenile rehabilitation administration; a statewide organization representing community and technical colleges; a statewide organization representing law enforcement interests; a statewide organization representing the interests of crime victims; a statewide organization representing prosecutors; a statewide organization representing public defenders; a statewide or local organization representing businesses and employers; housing providers; and faith-based organizations or communities;

(ii) At least two persons with experience reentering the community after incarceration; and

(iii) Two other community leaders.

(b) At least one position of the council must be reserved for an invited person with a background in tribal affairs, and such position has all of the same voting and other powers of other members.

(3) When making appointments, the governor shall consider:

(a) The racial and ethnic background of applicants in order for the membership to reflect the diversity of racial and ethnic backgrounds of all those who are incarcerated in the state;

(b) The gender of applicants in order for the membership to reflect the gender diversity of all those who are incarcerated in the state;

(c) The geographic location of all applicants in order for the membership to represent the different geographic regions of the state; and

(d) The experiences and background of all applicants relating to the incarcerated population.

NEW SECTION. **Sec. 5.** (1) The governor shall make initial appointments to the council. Initial appointments are for staggered terms from the date of appointment according to the following: Four members have four-year terms; four members have three year terms; and five members have two-year terms. The governor shall designate the appointees who will serve the staggered terms.

(2) Except for initial appointments under subsection (1) of this section, all appointments are for two years from the date of appointment. Any member may be reappointed for additional terms. Any member of the council may be removed by the governor for misfeasance, malfeasance, or willful neglect of duty after notice and a public hearing, unless such notice and hearing is expressly waived in writing by the affected member. In the event of a vacancy due to death,

resignation, or removal, or upon the expiration of a term, the governor shall appoint a successor for the remainder of the unexpired term according to the procedures in subsection (3) of this section. Vacancies must be filled within ninety days.

(3) The council shall create a selection committee to recruit, review, and recommend future members. Prior to thirty days before the expiration of a term or within sixty days of a vacancy due to death, resignation, or removal, the selection committee shall submit a recommendation of possible appointees. The governor shall consider the recommendations of the committee when making appointments.

(4) The council shall elect cochairs from among its membership. Cochairs are elected for two-year terms from the date of election. Any former or current cochair may be reelected for an additional term.

NEW SECTION. **Sec. 6.** (1) In addition to other powers and duties prescribed in this chapter, the council is empowered to:

(a) Meet at such times and places as necessary;

(b) Advise the legislature and the governor on issues relating to reentry and reintegration of offenders;

(c) Review, study, and make policy and funding recommendations on issues directly and indirectly related to reentry and reintegration of offenders in Washington state, including, but not limited to: Correctional programming and other issues in state and local correctional facilities; housing; employment; education; treatment; and other issues contributing to recidivism;

(d) Apply for, receive, use, and leverage public and private grants as well as specifically appropriated funds to establish, manage, and promote initiatives and programs related to successful reentry and reintegration of offenders;

(e) Contract for services as it deems necessary in order to carry out initiatives and programs;

(f) Adopt policies and procedures to facilitate the orderly administration of initiatives and programs;

(g) Create committees and subcommittees of the council as is necessary for the council to conduct its business; and

(h) Create and consult with advisory groups comprising nonmembers. Advisory groups are not eligible for reimbursement under section 7 of this act.

(2) Subject to the availability of amounts appropriated for this specific purpose, the council may select an executive director to administer the business of the council.

(a) The council may delegate to the executive director by resolution all duties necessary to efficiently carry on the business of the council. Approval by a majority vote of the council is required for any decisions regarding employment of the executive director.

(b) The executive director may not be a member of the council while serving as executive director.

(c) Employment of the executive director must be confirmed by the senate and terminates after a term of three years. At the end of a term, the council may consider hiring the executive director for an additional three-year term or an extension of a specified period less than three years. The council may fix the compensation of the executive director.

(d) Subject to the availability of amounts appropriated for this specific purpose, the executive director shall reside in and be funded by the department.

(3) In conducting its business, the council shall solicit input and participation from stakeholders interested in reducing recidivism, promoting public safety, and improving community conditions for people reentering the community from incarceration. The council shall consult: The two largest caucuses in the house of representatives; the two largest caucuses in the senate; the governor; local governments; educators; mental health and substance abuse providers; behavioral health organizations; managed care organizations; city and county jails; the department of corrections; specialty courts; persons with expertise in evidence-based and research-based reentry practices; and persons with criminal histories and their families.

(4) The council shall submit to the governor and appropriate committees of the legislature a preliminary report of its activities and recommendations by December 1st of its first year of operation, and every two years thereafter.

NEW SECTION. **Sec. 7.** The members of the council shall serve without compensation, but are entitled to be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 8.** (1) Meetings of the council must be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the cochairs or when a majority of the council membership so requests. Members may participate in a meeting of the council by means of a conference telephone or similar communication equipment as described in RCW 23B.08.200.

(2) Seven members of the council constitute a quorum.

(3) Once operational, the council must convene on a regular schedule at least four times during each year.

NEW SECTION. **Sec. 9.** (1) The joint legislative audit and review committee shall conduct a performance audit of the council every six years.

(2) Each audit must include but not be limited to:

(a) A determination of the extent to which funds expended by the council or provided in biennial budget acts expressly for implementing the duties of the council have contributed toward reducing recidivism in Washington;

(b) A determination of the efficiency and effectiveness of the council, based upon the achievement of the objectives and benchmarks established by this chapter and any applicable biennial budget acts; and

(c) Any recommendations for changes to the council's performance and structure necessary to ensure or improve accountability.

(3) The council may use the audits as the basis for developing changes to its policies and programs.

NEW SECTION. **Sec. 10.** (1) Subject to the availability of amounts appropriated for this specific purpose, the Washington state institute for public policy shall conduct a meta-analysis on the effectiveness of programs aimed at assisting offenders with reentering the community after incarceration. The study must include a review and update of the literature on reentry programs in Washington and across the country. The institute shall report on the types of programs demonstrated to be effective in reducing recidivism among the general offender population. The institute shall report results to the governor, appropriate

committees of the legislature, and the Washington statewide reentry council no later than June 1, 2017.

(2) This section expires August 1, 2017.

Sec. 11. RCW 41.06.070 and 2011 1st sp.s. c 43 s 1010, 2011 1st sp.s. c 39 s 4, and 2011 1st sp.s. c 16 s 22 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) Officers and employees of the Washington state fruit commission;

(n) Officers and employees of the Washington apple commission;

(o) Officers and employees of the Washington state dairy products commission;

(p) Officers and employees of the Washington tree fruit research commission;

(q) Officers and employees of the Washington state beef commission;

(r) Officers and employees of the Washington grain commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(u) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(v) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(w) Staff employed by the department of commerce to administer energy policy functions;

(x) The manager of the energy facility site evaluation council;

(y) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (v) of this subsection;

(z) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5);

(aa) Officers and employees of the consolidated technology services agency created in RCW 43.105.006 that perform the following functions or duties: Systems integration; data center engineering and management; network systems engineering and management; information technology contracting; information technology customer relations management; and network and systems security;

(bb) The executive director of the Washington statewide reentry council.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and

investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the office of financial management stating the reasons for requesting such exemptions. The director shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, or is a senior expert in enterprise information technology infrastructure, engineering, or systems, the director shall grant the request. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (t) and (2) of this section, shall be determined by the director. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

From July 1, 2011, through June 29, 2013, salaries for all positions exempt from classification under this chapter are subject to RCW 41.04.820.

From February 18, 2009, through June 30, 2013, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources;

(b) The salary increase will not adversely impact the provision of client services; and

(c) 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 exempt from classification under this chapter 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 exempt from classification under this chapter 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.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

From February 15, 2010, until June 30, 2013, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

From July 1, 2011, until June 30, 2013, no performance-based awards or incentives may be granted by the director or employers to employees pursuant to a performance management confirmation granted by the department of personnel under WAC 357-37-055.

NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act constitute a new chapter in Title 43 RCW.

Passed by the House March 8, 2016.

Passed by the Senate March 4, 2016.

Approved by the Governor April 1, 2016.

Filed in Office of Secretary of State April 4, 2016.

CHAPTER 189

[House Bill 2800]

COUNTY LEGISLATIVE AUTHORITIES--DOUBLE AMENDMENT

AN ACT Relating to correcting a double amendment concerning county legislative authorities; and reenacting and amending RCW 36.32.080.

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

Sec. 1. RCW 36.32.080 and 2015 c 179 s 1 and 2015 c 74 s 1 are each reenacted and amended to read as follows:

(1) The county legislative authority of each county shall hold regular meetings at the county seat or at a location designated in accordance with subsection (2) or (3) of this section to transact any business required or permitted by law.

(2)(a) Any two or more county legislative authorities may hold a joint regular meeting solely in the county seat of a participating county if the agenda item or items relate to actions or considerations of mutual interest or concern to the participating legislative authorities.

(b) A legislative authority participating in a joint regular meeting held in accordance with this subsection (2) must, for purposes of the meeting, comply with notice requirements for special meetings provided in RCW 42.30.080. This subsection (2)(b) does not apply to the legislative authority of the county in which the meeting will be held.

(3)(a) As an alternative option that may be exercised no more than once per calendar quarter, regular meetings may be held at a location outside of the county seat but within the county if the county legislative authority determines that holding a meeting at an alternate location would be in the interest of supporting greater citizen engagement in local government.

(b) The county legislative authority must give notice of any regular meeting held ((~~outside of the county seat. Notice must be given~~)) pursuant to this subsection (3) at least thirty days before the time of the meeting specified in the notice. At a minimum, notice must be:

(i) Posted on the county's web site;

(ii) Published in a newspaper of general circulation in the county; and

(iii) Sent via electronic transmission to any resident of the county who has chosen to receive the notice required under this section at an ((~~electronic mail [email]~~)) email address.

Passed by the House February 16, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 190

[Substitute House Bill 2831]

LIQUOR RETAILERS--RESALE AND WAREHOUSING

AN ACT Relating to assisting small businesses licensed to sell liquor in Washington state; amending RCW 66.28.340; and adding a new section to chapter 66.24 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 66.24 RCW to read as follows:

(1) There is a wine retailer reseller endorsement to a beer and/or wine specialty shop license issued under RCW 66.24.371, to sell wine at retail in original containers to retailers licensed to sell wine for consumption on the premises, for resale at their licensed premises according to the terms of the license. However, no single sale may exceed twenty-four liters, unless the sale is made by a licensee that was a former state liquor store or contract liquor store at the location from which such sales are made. For the purposes of this title, a beer and/or wine specialty shop license is a retail license, and a sale by a beer and/or wine specialty shop license with a reseller endorsement is a retail sale only if not for resale. The annual fee for the wine retailer reseller endorsement is one hundred ten dollars for each store.

(2) A beer and/or wine specialty shop licensee with a wine retailer reseller endorsement issued under this section may accept delivery of wine at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed premises, to other registered facilities, or to lawful purchasers outside the state. Facilities may be registered and utilized by associations, cooperatives, or comparable groups of beer and/or wine specialty shop licensees.

(3) A beer and/or wine specialty shop licensee, selling wine under the endorsement created in this section, may sell a maximum of five thousand liters of wine per day for resale to retailers licensed to sell wine for consumption on the premises.

Sec. 2. RCW 66.28.340 and 2012 c 2 s 123 are each amended to read as follows:

(1) A retailer authorized to sell wine may accept delivery of wine at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed retailers, to other registered facilities, or to lawful purchasers outside the state; such facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers including at least one retailer licensed to sell wine. A restaurant retailer authorized to sell spirits may accept delivery of spirits at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed retailers, to other registered facilities, or to lawful purchasers outside the state; such facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers including at least one restaurant retailer licensed to sell spirits. Nothing in this section authorizes sales of spirits or wine by a retailer holding only an on-sale privilege to another retailer.

(2) A retailer authorized to sell both wine and spirits for consumption off the licensed premises may accept delivery of wine and spirits at its licensed premises, at another licensed premises as designated by the retailer, or at one or more warehouse facilities registered with the board, which facilities may also

warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed retailers, to other registered facilities, or to lawful purchasers outside the state. Such warehouse facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers including at least one retailer licensed to sell both spirits and wine. For purposes of negotiating volume discounts, a group of individual retailers authorized to sell both wine and spirits for consumption off the licensed premises may accept delivery of wine and spirits at a single location, which may be their individual licensed premises or at any one of the individual licensee's premises, or at a warehouse facility registered with the board.

Passed by the House March 8, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 191

[Second Substitute House Bill 2839]

AIRCRAFT MAINTENANCE REPAIR OPERATORS--BUILDING CONSTRUCTION--TAX EXEMPTION

AN ACT Relating to providing a sales and use tax exemption for certain new building construction to be used by maintenance repair operators for airplane repair and maintenance; amending RCW 82.14.050 and 82.14.060; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; providing an effective date; and providing expiration dates.

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

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

(2) The legislature categorizes the tax preference in sections 2 and 3 of this act as one intended to create jobs, as indicated in RCW 82.32.808(2)(c).

(3) At the end of the third year after an aircraft maintenance and repair station is operationally complete, the joint legislative audit and review committee must evaluate, at a minimum:

(a) Whether a taxpayer claiming this tax preference is on target to reach the employment levels and average annualized wages under section 2 of this act by the end of the aircraft maintenance and repair station's fourth year of operation; and

(b) Whether the average annualized wages for employees are on a par with industry standards for the sector.

(4) In order to obtain the data necessary to perform the review, the joint legislative audit and review committee may refer to the annual report and annual survey for tax preferences that federal aviation administration part 145 repair stations are required to file with the department and to employment data available from the employment security department.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW to read as follows:

(1) Subject to the requirements of this section, the tax levied by RCW 82.08.020 does not apply to:

(a) Charges for labor and services rendered in respect to the constructing of new buildings, made to: (i) An eligible maintenance repair operator engaged in the maintenance of airplanes; or (ii) a port district, political subdivision, or municipal corporation, if the new building is to be leased to an eligible maintenance repair operator engaged in the maintenance of airplanes;

(b) Sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing; or

(c) Charges made for labor and services rendered in respect to installing, during the course of constructing such buildings, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565.

(2)(a) The exemption in this section is in the form of a remittance. A buyer claiming an exemption from the tax in the form of a remittance under this section must pay all applicable state and local sales taxes imposed under RCW 82.08.020 and chapter 82.14 RCW on all purchases qualifying for the exemption.

(b) The department must determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer may on a quarterly basis submit an application, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer must retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the location and size of new structures; and construction invoices and documents.

(c) The department must on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(d) A person may request a remittance for state sales and use taxes after the aircraft maintenance and repair station has been operationally complete for four years, but not sooner than December 1, 2021. However, the department may not remit the state portion of sales and use taxes if the person did not report at least one hundred average employment positions to the employment security department for September 1, 2020, through September 1, 2021, with an average annualized wage of eighty thousand dollars. A person must provide the department with the unemployment insurance number provided to the employment security department for the establishment.

(e) A person may request a remittance for local sales and use taxes on or after the effective date of this section.

(3) In order to qualify under this section before starting construction, the port district, political subdivision, or municipal corporation must have entered into an agreement with an eligible maintenance repair operator to build such a facility. A person claiming the exemption under this section is subject to all the requirements of chapter 82.32 RCW. In addition, the person must file a complete annual report with the department under RCW 82.32.534.

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

(a) "Eligible maintenance repair operator" means a person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and located in an international airport owned by a county with a population greater than one million five hundred thousand.

(b) "Operationally complete" means constructed to the point of being functionally capable of hosting the repair and maintenance of airplanes.

(5) This section expires January 1, 2027.

NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of:

(a) Tangible personal property that will be incorporated as an ingredient or component in constructing new buildings for: (i) An eligible maintenance repair operator; or (ii) a port district, political subdivision, or municipal corporation, to be leased to an eligible maintenance repair operator; or

(b) Labor and services rendered in respect to installing, during the course of constructing such buildings, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565.

(2) The eligibility requirements, conditions, and definitions in section 2 of this act apply to this section, including the filing of a complete annual report with the department under RCW 82.32.534.

(3) This section expires January 1, 2027.

Sec. 4. RCW 82.14.050 and 2014 c 216 s 403 are each amended to read as follows:

(1) The counties, cities, and transportation authorities under RCW 82.14.045, public facilities districts under chapters 36.100 and 35.57 RCW, public transportation benefit areas under RCW 82.14.440, regional transportation investment districts, and transportation benefit districts under chapter 36.73 RCW must contract, prior to the effective date of a resolution or ordinance imposing a sales and use tax, the administration and collection to the state department of revenue, which must deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected for administration and collection expenses incurred by the department. The remainder of any portion of any tax authorized by this chapter that is collected by the department of revenue must be deposited by the state department of revenue in the local sales and use tax account hereby created in the state treasury. Beginning January 1, 2013, the department of revenue must make deposits in the local sales and use tax account on a monthly basis on the last business day of the month in which distributions required in (a) of this subsection are due. Moneys in the local sales and use tax account may be withdrawn only for:

(a) Distribution to counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional transportation investment districts, and transportation benefit districts imposing a sales and use tax; and

(b) Making refunds of taxes imposed under the authority of this chapter and RCW 81.104.170 and exempted under RCW 82.08.962, 82.12.962, 82.08.02565, ((~~and~~)) 82.12.02565, or section 2 or 3 of this act.

(2) All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW, as they now exist or may hereafter be amended, insofar as they are applicable to state sales and use taxes, are applicable to taxes imposed pursuant to this chapter.

(3) Counties, cities, transportation authorities, public facilities districts, and regional transportation investment districts may not conduct independent sales or use tax audits of sellers registered under the streamlined sales tax agreement.

(4) Except as provided in RCW 43.08.190 and subsection (5) of this section, all earnings of investments of balances in the local sales and use tax account must be credited to the local sales and use tax account and distributed to the counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional transportation investment districts, and transportation benefit districts monthly.

(5) Beginning January 1, 2013, the state treasurer must determine the amount of earnings on investments that would have been credited to the local sales and use tax account if the collections had been deposited in the account over the prior month. When distributions are made under subsection (1)(a) of this section, the state treasurer must transfer this amount from the state general fund to the local sales and use tax account and must distribute such sums to the counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional transportation investment districts, and transportation benefit districts.

Sec. 5. RCW 82.14.060 and 2014 c 216 s 404 are each amended to read as follows:

(1)(a) Monthly, the state treasurer must distribute from the local sales and use tax account to the counties, cities, transportation authorities, public facilities districts, and transportation benefit districts the amount of tax collected on behalf of each taxing authority, less:

(i) The deduction provided for in RCW 82.14.050; and

(ii) The amount of any refunds of local sales and use taxes exempted under RCW 82.08.962, 82.12.962, 82.08.02565, ((~~and~~)) 82.12.02565, or section 2 or 3 of this act, which must be made without appropriation.

(b) The state treasurer must make the distribution under this section without appropriation.

(2) In the event that any ordinance or resolution imposes a sales and use tax at a rate in excess of the applicable limits contained herein, such ordinance or resolution may not be considered void in toto, but only with respect to that portion of the rate which is in excess of the applicable limits contained herein.

NEW SECTION. **Sec. 6.** This act takes effect July 1, 2016.

Passed by the House March 4, 2016.

Passed by the Senate March 10, 2016.

Approved by the Governor April 1, 2016.

Filed in Office of Secretary of State April 4, 2016.

CHAPTER 192

[House Bill 2842]

CITY OF PASCO--STATE LAND IMPROVEMENT FINANCE AREA

AN ACT Relating to financing of improvements for state-owned lands to be transferred for private development; and adding a new chapter to Title 39 RCW.

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

NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(2) "Bond" means a bond, note, or other evidence of indebtedness, including but not limited to a lease-purchase agreement or an executory conditional sales contract.

(3) "City" means a city with a population greater than sixty thousand that is located east of the Cascade mountains and abutted by the Columbia river to the south and that is the sponsor of a state land improvement financing area.

(4) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

(5) "Ordinance" means any appropriate method of taking legislative action by a local government.

(6) "Property tax revenue" means tax revenue derived from the receipt of all regular property taxes levied on the state land improvement financing area and used for state land improvement financing.

(7) "Public improvement costs" means the costs of:

(a) Design, planning, acquisition, including land acquisition, site preparation, including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements;

(b) Demolishing, relocating, maintaining, and operating property pending construction of public improvements;

(c) Relocating utilities as a result of public improvements;

(d) Financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; and

(e) Administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of state land improvement financing to fund the costs of the public improvements.

(8) "Public improvements" means:

(a) Infrastructure improvements within the state land improvement financing area including:

(i) Street, road, bridge, and rail construction and maintenance;

(ii) Water and sewer system construction and improvements;

(iii) Sidewalks, streetlights, landscaping, and streetscaping;

(iv) Parking facilities;

(v) Park facilities, recreational areas, and environmental remediation;

(vi) Storm water and drainage management systems;

(vii) Electric, gas, fiber, and other utility infrastructures; and

(b) Expenditures for any of the following purposes:

(i) Providing environmental analysis, professional management, planning, and promotion within the state land improvement financing area;

(ii) Providing maintenance and security for common or public areas in the state land improvement financing area; and

(iii) Historic preservation activities authorized under RCW 35.21.395.

(9) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

(10) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except regular property taxes levied by the state for the support of the common schools under RCW 84.52.065. "Regular property taxes" do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043.

(11) "State land improvement financing" means the use of regular property tax revenue dedicated to pay the public improvement costs within the state land improvement financing area.

(12) "State land improvement financing area" means the geographic area adopted by a city and from which property tax revenues are derived for state land improvement financing, and which meets the following conditions:

(a) The state of Washington is the current owner of the land, and the land is being sold for private development; or

(b) The state of Washington was the most recent owner of the land, prior to it being sold for private development.

(13) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved state land improvement financing area.

(14) "Value of taxable property" means the value of the taxable property as defined in RCW 39.36.015.

NEW SECTION. **Sec. 2.** CONDITIONS. A city may finance public improvements using state land improvement financing subject to the following conditions:

(1) The city has adopted an ordinance designating a state land improvement financing area within its boundaries and specified the public improvements proposed to be financed in whole or in part with the use of state land improvement financing.

(2) The public improvements proposed to be financed in whole or in part using state land improvement financing are expected to encourage private development within the state land improvement financing area and to increase the fair market value of real property within the state land improvement financing area.

(3) Private development that is anticipated to occur within the state land improvement financing area, as a result of the public improvements, will be consistent with the countywide planning policy adopted by the county under RCW 36.70A.210 and the city's comprehensive plan and development regulations adopted under chapter 36.70A RCW.

NEW SECTION. **Sec. 3.** PROCEDURES FOR CREATING STATE LAND IMPROVEMENT FINANCING AREA. Before adopting an ordinance creating the state land improvement financing area, a city must:

(1) Provide written notice of a public hearing to each taxing jurisdiction that levies regular property taxes in the state land improvement financing area, publish notice of the public hearing in a legal newspaper of general circulation within the proposed state land improvement financing area at least ten days before the public hearing, and post the notice in at least six conspicuous public places located in the proposed state land improvement financing area. Notices must describe the contemplated public improvements, estimate the costs of the public improvements, describe the portion of the costs of the public improvements to be borne by state land improvement financing, describe any other sources of revenue to finance the public improvements, describe the boundaries of the proposed state land improvement financing area, and estimate the period during which state land improvement financing is contemplated to be used. The public hearing may be held by either the governing body of the city, or a committee of the governing body that includes at least a majority of the whole governing body;

(2) Hold a public hearing on the proposed financing of the public improvement in whole or in part with state land improvement financing; and

(3) Adopt an ordinance establishing the state land improvement financing area that describes the public improvements, describes the boundaries of the state land improvement financing area, estimates the cost of the public improvements and the portion of these costs to be financed by state land improvement financing, estimates the time during which regular property taxes are to be apportioned, provides the date when the apportionment of the regular property taxes will commence, and finds that the conditions of section 2 of this act are met.

NEW SECTION. **Sec. 4.** PUBLIC NOTICE—NOTICE TO OFFICIALS. The city must:

(1) Publish notice in a legal newspaper of general circulation within the state land improvement financing area that describes the public improvement, describes the boundaries of the state land improvement financing area, and identifies the location and times where the ordinance and other public information concerning the public improvement may be inspected; and

(2) Deliver a certified copy of the ordinance to the county treasurer, the county assessor, and the governing body of each taxing district within which the state land improvement financing area is located.

NEW SECTION. **Sec. 5.** LIMITATIONS ON STATE LAND IMPROVEMENT FINANCING AREAS. A state land improvement financing area is subject to the following limitations:

(1) A state land improvement financing area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of property not included in the state land improvement financing area.

(2) The public improvements financed through bonds issued under section 7 of this act and public improvements made on a pay-as-you-go basis must be located in the state land improvement financing area.

(3) A state land improvement financing area cannot comprise an area containing more than twenty-five percent of the total assessed value of the taxable real property within the boundaries of the city at the time the state land improvement financing area is created.

(4) The boundaries of the state land improvement financing area may not be changed for the time period that receipts from regular property taxes are used to pay bonds issued under section 7 of this act and public improvement costs within the state land improvement financing area on a pay-as-you-go basis, as provided under this chapter.

NEW SECTION. **Sec. 6.** APPORTIONMENT OF REVENUES. (1) Commencing in the calendar year following the passage of the ordinance, the county treasurer must distribute receipts from regular taxes imposed on real property located in the state land improvement financing area to the city.

(2) The city may agree to receive less than the full amount of the regular property taxes under subsection (1) of this section as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of these tax receipts must be allocated to the taxing districts that levied regular property taxes, or have regular property taxes levied for them, in the state land improvement financing area for collection that year in proportion to their regular tax levy rates for collection that year.

(3) The city may request that the treasurer transfer the property taxes to its designated agent. The tax receipts distributed to the city or its agent under this section may only be expended to finance public improvement costs associated with the public improvements financed in whole or in part by state land improvement financing.

(4) This section does not authorize revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW or under other authorized revaluation procedures.

(5) The distribution of regular property tax revenue to the city must cease when regular property taxes are no longer obligated to pay the costs of the public improvements. Any excess regular property tax revenues, and earnings on the revenues, remaining at the time the distribution of regular property tax revenue terminates, must be returned to the county treasurer and distributed to the participating taxing districts that imposed regular property taxes, or had regular property taxes imposed for it, in the state land improvement financing area for collection that year, in proportion to the rates of their regular property tax levies for collection that year.

NEW SECTION. **Sec. 7.** GENERAL INDEBTEDNESS. (1) A city creating a state land improvement financing area and authorizing the use of state land improvement financing may incur general indebtedness, including issuing general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from state land improvement financing it receives, subject to the following requirements:

(a) The ordinance adopted by the city creating the state land improvement financing area and authorizing the use of state land improvement financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

(b) The city includes this statement of intent in all notices required by section 4 of this act.

(2) The general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the city, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the city for payment of costs of the public improvements or associated debt service on the general indebtedness.

(3) In addition to the requirements in subsection (1) of this section, a city creating a state land improvement financing area and authorizing the use of state land improvement financing may require any nonpublic participants to provide adequate security to protect the public investment in the public improvement within the state land improvement financing area.

NEW SECTION. **Sec. 8.** USE OF TAX REVENUE FOR BOND REPAYMENT. A city that issues bonds issued under section 7 of this act to finance public improvements may pledge for the payment of such bonds all or part of any regular property tax revenues derived from the public improvements.

NEW SECTION. **Sec. 9.** LIMITATION ON BONDS ISSUED. The bonds issued by a city under section 7 of this act to finance public improvements do not constitute an obligation of the state of Washington, either general or special.

NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act constitute a new chapter in Title 39 RCW.

Passed by the House February 17, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 193

[Engrossed Substitute House Bill 2847]

SHORELINE MANAGEMENT ACT--SUBSTANTIAL DEVELOPMENT EXCLUSIONS--DISABILITY RETROFITTING

AN ACT Relating to creating an exemption to the definition of substantial development in chapter 90.58 RCW relating to the retrofitting of existing structures to accommodate physical access by individuals with disabilities; and amending RCW 90.58.030.

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

Sec. 1. RCW 90.58.030 and 2014 c 23 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the following definitions and concepts apply:

(1) Administration:

(a) "Department" means the department of ecology;

(b) "Director" means the director of the department of ecology;

(c) "Hearings board" means the shorelines hearings board established by this chapter;

(d) "Local government" means any county, incorporated city, or town which contains within its boundaries any lands or waters subject to this chapter;

(e) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

(2) Geographical:

(a) "Extreme low tide" means the lowest line on the land reached by a receding tide;

(b) "Floodway" means the area, as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state;

(c) "Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water;

(d) "Shorelands" or "shoreland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology.

(i) Any county or city may determine that portion of a one-hundred-year-flood plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom.

(ii) Any city or county may also include in its master program land necessary for buffers for critical areas, as defined in chapter 36.70A RCW, that occur within shorelines of the state, provided that forest practices regulated under chapter 76.09 RCW, except conversions to nonforest land use, on lands subject to the provisions of this subsection (2)(d)(ii) are not subject to additional regulations under this chapter;

(e) "Shorelines" means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;

(f) "Shorelines of statewide significance" means the following shorelines of the state:

(i) The area between the ordinary high water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;

(ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:

(A) Nisqually Delta—from DeWolf Bight to Tatsolo Point,

(B) Birch Bay—from Point Whitehorn to Birch Point,

(C) Hood Canal—from Tala Point to Foulweather Bluff,

(D) Skagit Bay and adjacent area—from Brown Point to Yokeko Point, and

(E) Padilla Bay—from March Point to William Point;

(iii) Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide;

(iv) Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;

(v) Those natural rivers or segments thereof as follows:

(A) Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more,

(B) Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer;

(vi) Those shorelands associated with (f)(i), (ii), (iv), and (v) of this subsection (2);

(g) "Shorelines of the state" are the total of all "shorelines" and "shorelines of statewide significance" within the state;

(h) "Wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

(3) Procedural terms:

(a) "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level;

(b) "Guidelines" means those standards adopted to implement the policy of this chapter for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria to local governments and the department in developing master programs;

(c) "Master program" ((~~shall~~)) means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. "Comprehensive master program update" means a master program that fully achieves the procedural and substantive requirements of the department guidelines effective January 17, 2004, as now or hereafter amended;

(d) "State master program" is the cumulative total of all master programs approved or adopted by the department of ecology;

(e) "Substantial development" ((~~shall~~)) means any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. The following shall not be considered substantial developments for the purpose of this chapter:

(i) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;

(ii) Construction of the normal protective bulkhead common to single-family residences;

(iii) Emergency construction necessary to protect property from damage by the elements;

(iv) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay,

grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

(v) Construction or modification of navigational aids such as channel markers and anchor buoys;

(vi) Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;

(vii) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if either: (A) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars; or (B) in fresh waters, the fair market value of the dock does not exceed: (I) Twenty thousand dollars for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced, and are located in a county, city, or town that has updated its master program consistent with the master program guidelines in chapter 173-26 WAC as adopted in 2003; or (II) ten thousand dollars for all other docks constructed in fresh waters. However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified in either (e)(vii)(A) or (B) of this subsection (3), the subsequent construction shall be considered a substantial development for the purpose of this chapter. All dollar thresholds under (e)(vii)(B) of this subsection (3) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2018, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The office of financial management must calculate the new dollar thresholds, rounded to the nearest hundred dollar, and transmit them to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar thresholds are to take effect;

(viii) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater for the irrigation of lands;

(ix) The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

(x) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;

(xi) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

(A) The activity does not interfere with the normal public use of the surface waters;

(B) The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

(C) The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

(D) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

(E) The activity is not subject to the permit requirements of RCW 90.58.550;

(xii) The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department jointly with other state agencies under chapter 43.21C RCW;

(xiii) The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with disabilities act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

Passed by the House March 8, 2016.
Passed by the Senate March 2, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 194

[House Bill 2856]

OFFICE OF CHEHALIS BASIN--CREATION AND ACCOUNT

AN ACT Relating to establishing the office of Chehalis basin; reenacting and amending RCW 43.84.092; and adding new sections to chapter 43.21A RCW.

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

NEW SECTION. **Sec. 1.** (1) The office of Chehalis basin is established in the department. The primary purpose of the office is to aggressively pursue implementation of an integrated strategy and administer funding for long-term flood damage reduction and aquatic species restoration in the Chehalis river basin.

(2) The office of Chehalis basin must be funded from appropriations specified for Chehalis river basin-related flood hazard reduction and habitat recovery activities.

(3) In operating the office, the department must follow, to the greatest extent practicable, the model being used to administer the Columbia river basin water supply program established in chapter 6, Laws of 2006.

NEW SECTION. **Sec. 2.** (1) The Chehalis board is created consisting of seven members.

(2)(a) Four members of the board must be voting members who are appointed by the governor, subject to confirmation by the senate. One member must represent the Chehalis Indian tribe and one member must represent the Quinault Indian nation. Three board members must be selected by the Chehalis basin flood authority. No member may have a financial or regulatory interest in the work of the board. The governor shall appoint one of the flood authority appointees as the chair. The voting members of the board must be appointed for terms of four years, except that two members initially must be appointed for terms of two years and three members must initially be appointed for terms of three years. In making the appointments, the governor shall seek a board membership that collectively provides the expertise necessary to provide strong oversight for implementation of the Chehalis basin strategy, that provides extensive knowledge of local government processes and functions, and that has an understanding of issues relevant to reducing flood damages and restoring aquatic species.

(b) In addition to the seven voting members of the board, the following five state officials must serve as ex officio nonvoting members of the board: The director of the department of fish and wildlife, the executive director of the Washington state conservation commission, the secretary of the department of transportation, the director of the department of ecology, and the commissioner of public lands. The state officials serving in an ex officio capacity may designate a representative of their respective agencies to serve on the board in their behalf. These designations must be made in writing and in such a manner as is specified by the board.

(3) Staff support to the board must be provided by the department. For administrative purposes, the board is located within the department.

(4) Members of the board who do not represent state agencies must be compensated as provided by RCW 43.03.250. Members of the board shall be reimbursed for travel expenses as provided by RCW 43.03.050 and 43.03.060.

(5) The board is responsible for oversight of a long-term strategy resulting from the department's programmatic environmental impact statement for the Chehalis river basin to reduce flood damages and restore aquatic species habitat.

(6) The board is responsible for overseeing the implementation of the strategy and developing biennial and supplemental budget recommendations to the governor.

NEW SECTION. **Sec. 3.** The Chehalis basin strategy must include a detailed set of actions to reduce flood damage and improve aquatic species habitat. The strategy must be amended by the Chehalis board as necessary to include new scientific information and needed changes to the actions to achieve the overall purpose of the strategy. The strategy must include an implementation schedule and quantified measures for evaluating the success of implementation.

NEW SECTION. **Sec. 4.** The Chehalis basin account is created in the state treasury. All receipts from direct appropriations from the legislature, including

the proceeds of tax exempt bonds, or moneys directed to the account from any other sources must be deposited in the account. Interest earned by deposits in the account will be retained in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes set out in section 1 of this act and for the payment of expenses incurred in the issuance and sale of bonds.

Sec. 5. RCW 43.84.092 and 2015 3rd sp.s. c 44 s 107 and 2015 3rd sp.s. c 12 s 3 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative

account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation future funding program account, the

transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 6.** Sections 1 through 4 of this act are each added to chapter 43.21A RCW.

Passed by the House March 8, 2016.
Passed by the Senate March 3, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 195

[Substitute House Bill 2875]

OFFICE OF PRIVACY AND DATA PROTECTION--CREATION

AN ACT Relating to establishing the office of data privacy, protection, and access equity; adding a new section to chapter 43.105 RCW; adding a new section to chapter 44.28 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** The legislature finds that the rapid expansion of digital technology and mobile networks is changing how citizens access and

share personal data and communications. Data privacy, data protection, and access equity are of increasing concern for all residents of the state. State agencies and programs entrusted by citizens with sensitive personal information must serve as responsible custodians of this data. The state can also play an important role in educating local governments and consumers about measures that may help them protect this information and as an advocate for access equity. In an interconnected world, citizens who lack meaningful access to digital technology, including mobile networks and high-speed internet connections, lack the necessary tools for sharing in the state's technology, innovation, and economic development successes. For the forgoing reasons, the legislature finds that it is necessary and efficient to have a central point of contact for policy matters involving data privacy, data protection, and access equity.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.105 RCW to read as follows:

(1) The office of privacy and data protection is created within the office of the state chief information officer. The purpose of the office of privacy and data protection is to serve as a central point of contact for state agencies on policy matters involving data privacy and data protection.

(2) The director shall appoint the chief privacy officer, who is the director of the office of privacy and data protection.

(3) The primary duties of the office of privacy and data protection with respect to state agencies are:

(a) To conduct an annual privacy review;

(b) To conduct an annual privacy training for state agencies and employees;

(c) To articulate privacy principles and best practices;

(d) To coordinate data protection in cooperation with the agency; and

(e) To participate with the office of the state chief information officer in the review of major state agency projects involving personally identifiable information.

(4) The office of privacy and data protection must serve as a resource to local governments and the public on data privacy and protection concerns by:

(a) Developing and promoting the dissemination of best practices for the collection and storage of personally identifiable information, including establishing and conducting a training program or programs for local governments; and

(b) Educating consumers about the use of personally identifiable information on mobile and digital networks and measures that can help protect this information.

(5) By December 1, 2016, and every four years thereafter, the office of privacy and data protection must prepare and submit to the legislature a report evaluating its performance. The office of privacy and data protection must establish performance measures in its 2016 report to the legislature and, in each report thereafter, demonstrate the extent to which performance results have been achieved. These performance measures must include, but are not limited to, the following:

(a) The number of state agencies and employees who have participated in the annual privacy training;

(b) A report on the extent of the office of privacy and data protection's coordination with international and national experts in the fields of data privacy, data protection, and access equity;

(c) A report on the implementation of data protection measures by state agencies attributable in whole or in part to the office of privacy and data protection's coordination of efforts; and

(d) A report on consumer education efforts, including but not limited to the number of consumers educated through public outreach efforts, as indicated by how frequently educational documents were accessed, the office of privacy and data protection's participation in outreach events, and inquiries received back from consumers via telephone or other media.

(6) Within one year of the effective date of this section, the office of privacy and data protection must submit to the joint legislative audit and review committee for review and comment the performance measures developed under subsection (5) of this section and a data collection plan.

(7) The office of privacy and data protection shall submit a report to the legislature on the: (a) Extent to which telecommunications providers in the state are deploying advanced telecommunications capability; and (b) existence of any inequality in access to advanced telecommunications infrastructure experienced by residents of tribal lands, rural areas, and economically distressed communities. The report may be submitted at a time within the discretion of the office of privacy and data protection, at least once every four years, and only to the extent the office of privacy and data protection is able to gather and present the information within existing resources.

NEW SECTION. **Sec. 3.** A new section is added to chapter 44.28 RCW to read as follows:

(1) The joint committee must conduct a program and fiscal review of the office of privacy and data protection created in section 2 of this act, by June 30, 2025, and report its findings to the legislature and the governor by December 1, 2025. The report must be prepared in the manner set forth in RCW 44.28.071 and 44.28.075.

(2) This section expires July 1, 2026.

Passed by the House February 15, 2016.
Passed by the Senate March 1, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 196

[Substitute House Bill 2876]

FORECLOSURE FAIRNESS ACCOUNT--EXPENDITURES AND REMITTANCES

AN ACT Relating to the foreclosure of deeds of trust; amending RCW 61.24.172 and 61.24.135; adding a new section to chapter 61.24 RCW; creating a new section; repealing RCW 61.24.174; and providing an effective date.

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

Sec. 1. RCW 61.24.172 and 2015 3rd sp.s. c 4 s 965 are each amended to read as follows:

The foreclosure fairness account is created in the custody of the state treasurer. All receipts received under RCW 61.24.174, as it existed prior to the effective date of this section, and section 2 of this act must be deposited into the account. Only the director of the department of commerce or the director's designee may authorize expenditures from the account. Funding to agencies and organizations under this section must be provided by the department through an interagency agreement or other applicable contract instrument. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Biennial expenditures from the account must be used as follows: Four hundred thousand dollars to fund the counselor referral hotline. The remaining funds shall be distributed as follows: (1) ((~~No less than seventy-one~~)) Sixty-nine percent ((~~must be used~~)) for the purposes of providing housing counseling activities to benefit borrowers((~~, except that this amount may be less than seventy-one percent only if necessary to meet the funding level specified for the office of the attorney general under subsection (2) of this section and the department under subsection (4) of this section~~)); (2) ((~~up to six~~)) eight percent((~~, or six hundred fifty-five thousand dollars per biennium, whichever amount is greater,~~)) to the office of the attorney general to be used by the consumer protection division to enforce this chapter; (3) ((~~up to two~~)) six percent to the office of civil legal aid to be used for the purpose of contracting with qualified legal aid programs for legal representation of homeowners in matters relating to foreclosure. Funds provided under this subsection (3) must be used to supplement, not supplant, other federal, state, and local funds; and (4) ((~~up to eighteen~~)) seventeen percent((~~, or one million four hundred thousand dollars per biennium, whichever amount is greater,~~)) to the department to be used for implementation and operation of the foreclosure fairness act((~~; and (5) up to three percent to the department of financial institutions to conduct homeowner prepurchase and postpurchase outreach and education programs as defined in RCW 43.320.150~~)).

The department shall enter into interagency agreements to contract with the Washington state housing finance commission and other appropriate entities to implement the foreclosure fairness act.

((~~During fiscal year 2016, the department of commerce may expend funds from the account to review deed of trust and foreclosure laws.~~))

NEW SECTION. **Sec. 2.** A new section is added to chapter 61.24 RCW to read as follows:

(1) Except as provided in subsections (4) and (5) of this section, beginning July 1, 2016, and every quarter thereafter, every beneficiary on whose behalf a notice of trustee's sale has been recorded pursuant to RCW 61.24.040 on residential real property under this chapter must:

(a) Report to the department the number of notices of trustee's sale recorded for each residential property during the previous quarter;

(b) Remit the amount required under subsection (2) of this section; and

(c) Report and update beneficiary contact information for the person and work group responsible for the beneficiary's compliance with the requirements of the foreclosure fairness act created in this chapter.

(2) For each notice of trustee's sale recorded on residential real property, the beneficiary on whose behalf the notice of trustee's sale has been recorded shall remit two hundred fifty dollars to the department to be deposited, as provided

under RCW 61.24.172, into the foreclosure fairness account. The two hundred fifty dollar payment is required for every recorded notice of trustee's sale, but does not apply to the recording of an amended notice of trustee's sale. If the beneficiary previously made a payment under RCW 61.24.174, as it existed prior to the effective date of this section, for a notice of default supporting the recorded notice of trustee's sale, no payment is required under this section. The beneficiary shall remit the total amount required in a lump sum each quarter.

(3) Reporting and payments under subsections (1) and (2) of this section are due within forty-five days of the end of each quarter.

(4) This section does not apply to any beneficiary or loan servicer that is a federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), and that certifies under penalty of perjury that fewer than fifty notices of trustee's sale were recorded on its behalf in the preceding year.

(5) This section does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

(6) For purposes of this section, "residential real property" includes residential real property with up to four dwelling units, whether or not the property or any part thereof is owner-occupied.

Sec. 3. RCW 61.24.135 and 2011 c 58 s 14 are each amended to read as follows:

(1) It is an unfair or deceptive act or practice under the consumer protection act, chapter 19.86 RCW, for any person, acting alone or in concert with others, to offer, or offer to accept or accept from another, any consideration of any type not to bid, or to reduce a bid, at a sale of property conducted pursuant to a power of sale in a deed of trust. The trustee may decline to complete a sale or deliver the trustee's deed and refund the purchase price, if it appears that the bidding has been collusive or defective, or that the sale might have been void. However, it is not an unfair or deceptive act or practice for any person, including a trustee, to state that a property subject to a recorded notice of trustee's sale or subject to a sale conducted pursuant to this chapter is being sold in an "as-is" condition, or for the beneficiary to arrange to provide financing for a particular bidder or to reach any good faith agreement with the borrower, grantor, any guarantor, or any junior lienholder.

(2) It is an unfair or deceptive act in trade or commerce and an unfair method of competition in violation of the consumer protection act, chapter 19.86 RCW, for any person or entity to: (a) Violate the duty of good faith under RCW 61.24.163; (b) fail to comply with the requirements of RCW 61.24.174, as it existed prior to the effective date of this section, or section 2 of this act; or (c) fail to initiate contact with a borrower and exercise due diligence as required under RCW 61.24.031.

NEW SECTION. **Sec. 4.** RCW 61.24.174 (Required payment for each property subject to notice of default—Owner-occupied residential real property—Exception—Deposit into foreclosure fairness account) and 2012 c 185 s 8, 2011 1st sp.s. c 24 s 1, & 2011 c 58 s 12 are each repealed.

NEW SECTION. **Sec. 5.** The repeal in section 4 of this act does not affect any existing right acquired or liability or obligation incurred under the section repealed or under any rule or order adopted under that section, nor does it affect any proceeding instituted under that section.

NEW SECTION. **Sec. 6.** This act takes effect July 1, 2016.

Passed by the House February 16, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 197

[Engrossed House Bill 2883]

STATE AGENCY REPORTS--REDUCTION

AN ACT Relating to government efficiency by eliminating or revising the requirements for state agency reports; amending RCW 28B.10.029, 43.19.642, 43.43.480, 49.04.190, 50.22.157, 70.41.045, 72.10.020, 74.14A.060, and 79A.25.350; reenacting and amending RCW 46.52.120 and 77.85.140; and repealing RCW 18.27.342, 28A.345.060, 43.22.330, 46.01.325, 43.88.500, 43.88.505, 43.88.510, and 43.88.515.

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

Sec. 1. RCW 28B.10.029 and 2015 c 79 s 1 are each amended to read as follows:

(1)(a) An institution of higher education may, consistent with RCW 28B.10.925 and 28B.10.926, exercise independently those powers otherwise granted to the director of enterprise services in chapters 43.19 and 39.26 RCW in connection with the purchase and disposition of all material, supplies, services, and equipment needed for the support, maintenance, and use of the respective institution of higher education.

(b) Property disposition policies followed by institutions of higher education shall be consistent with policies followed by the department of enterprise services.

(c)(i) Except as provided in (c)(ii) and (iii) of this subsection and elsewhere as provided by law, purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapters 39.19, 39.26, and 43.03 RCW, and RCW 43.19.1917, 43.19.685, and 43.19.560 through 43.19.637.

(ii) Institutions of higher education may use all appropriate means for making and paying for travel arrangements including, but not limited to, electronic booking and reservations, advance payment and deposits for tours, lodging, and other necessary expenses, and other travel transactions based on standard industry practices and federal accountable plan requirements. Such arrangements shall support student, faculty, staff, and other participants' travel, by groups and individuals, both domestic and international, in the most cost-effective and efficient manner possible, regardless of the source of funds.

(iii) Formal sealed, electronic, or web-based competitive bidding is not necessary for purchases or personal services contracts by institutions of higher education for less than one hundred thousand dollars. However, for purchases and personal services contracts of ten thousand dollars or more and less than one hundred thousand dollars, quotations must be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone, electronic, or written quotations, or any combination thereof. As part of securing the three vendor quotations, institutions of higher education must invite at least one quotation each from a certified minority and a certified woman-owned vendor that otherwise qualifies to perform the work. A record of competition for

all such purchases and personal services contracts of ten thousand dollars or more and less than one hundred thousand dollars must be documented for audit purposes.

(d) Purchases under chapter 39.26, 43.19, or 43.105 RCW by institutions of higher education may be made by using contracts for materials, supplies, services, or equipment negotiated or entered into by, for, or through group purchasing organizations.

(e) The community and technical colleges shall comply with RCW 43.19.450.

(f) Except for the University of Washington, institutions of higher education shall comply with RCW 43.19.769, 43.19.763, and 43.19.781.

(g) If an institution of higher education can satisfactorily demonstrate to the director of the office of financial management that the cost of compliance is greater than the value of benefits from any of the following statutes, then it shall be exempt from them: RCW 43.19.685 and 43.19.637.

(h) ((~~Any~~)) When any institution of higher education ((~~that chooses to exercise~~)) exercises its independent purchasing authority for a commodity or group of commodities ((~~shall notify the director of enterprise services. Thereafter~~)), the director of enterprise services shall not be required to provide those services for that institution for the duration of the enterprise services contract term for that commodity or group of commodities.

(2) The council of presidents and the state board for community and technical colleges shall convene its correctional industries business development advisory committee, and work collaboratively with correctional industries, to:

(a) Reaffirm purchasing criteria and ensure that quality, service, and timely delivery result in the best value for expenditure of state dollars;

(b) Update the approved list of correctional industries products from which higher education shall purchase; and

(c) Develop recommendations on ways to continue to build correctional industries' business with institutions of higher education.

(3) Higher education and correctional industries shall develop a plan to build higher education business with correctional industries to increase higher education purchases of correctional industries products, based upon the criteria established in subsection (2) of this section. The plan shall include the correctional industries' production and sales goals for higher education and an approved list of products from which higher education institutions shall purchase, based on the criteria established in subsection (2) of this section. Higher education and correctional industries shall report to the legislature regarding the plan and its implementation no later than January 30, 2005.

(4)(a) Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2006, to purchase one percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections. Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2008, to purchase two percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections.

(b) Institutions of higher education shall endeavor to assure the department of corrections has notifications of bid opportunities with the goal of meeting or exceeding the purchasing target in (a) of this subsection.

Sec. 2. RCW 43.19.642 and 2015 1st sp.s. c 10 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~~)) 2016, file ((~~biannual~~)) annual reports with the department of enterprise services documenting the use of the fuel and a description of how any problems encountered were resolved.

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

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

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

(5) During the 2011-2013, 2013-2015, and 2015-2017 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. 3. RCW 43.43.480 and 2000 c 118 s 1 are each amended to read as follows:

(1) Beginning May 1, 2000, the Washington state patrol shall collect((~~, and report semiannually to the criminal justice training commission,~~)) the following information:

(a) The number of individuals stopped for routine traffic enforcement, whether or not a citation or warning was issued;

(b) Identifying characteristics of the individual stopped, including the race or ethnicity, approximate age, and gender;

(c) The nature of the alleged violation that led to the stop;

(d) Whether a search was instituted as a result of the stop; and

(e) Whether an arrest was made, or a written citation issued, as a result of either the stop or the search.

(2) The criminal justice training commission and the Washington state patrol shall compile the information required under subsection (1) of this section and make a report to the legislature no later than December 1, 2000.

Sec. 4. RCW 46.52.120 and 1998 c 218 s 1 and 1998 c 165 s 10 are each reenacted and amended to read as follows:

(1) The director shall keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each driver, showing all the convictions and findings of traffic infractions certified by the courts((~~, together with an index cross-reference record of each accident reported relating to such individual with a brief statement of the cause of the accident and whether or not the accident resulted in any fatality. The chief of the Washington state patrol shall furnish the index cross-reference record to the director, with reference to each driver involved in the reported accidents~~)).

(2) The records shall be for the confidential use of the director, the chief of the Washington state patrol, the director of the Washington traffic safety commission, and for such police officers or other cognizant public officials as may be designated by law. Such case records shall not be admitted into evidence in any court, except where relevant to the prosecution or defense of a criminal charge, or in case appeal is taken from the order of the director, suspending, revoking, canceling, or refusing a vehicle driver's license.

(3) The director shall tabulate and analyze vehicle driver's case records and suspend, revoke, cancel, or refuse a vehicle driver's license to a person when it is deemed from facts contained in the case record of such person that it is for the best interest of public safety that such person be denied the privilege of operating a motor vehicle. The director shall also suspend a person's driver's license if the person fails to attend or complete a driver improvement interview or fails to abide by conditions of probation under RCW 46.20.335. Whenever the director orders the vehicle driver's license of any such person suspended, revoked, or canceled, or refuses the issuance of a vehicle driver's license, such suspension, revocation, cancellation, or refusal is final and effective unless appeal from the decision of the director is taken as provided by law.

Sec. 5. RCW 49.04.190 and 2006 c 161 s 4 are each amended to read as follows:

(1) Within existing resources, the Washington state apprenticeship and training council shall approve and oversee direct-entry programs for graduating secondary students into building and construction-related apprenticeships by:

(a) Assisting individual school districts in using and leveraging existing resources; and

(b) Developing guidelines, including guidelines that ensure that graduating secondary school students will receive appropriate education and training and will have the opportunity to transition to local apprenticeship programs. The guidelines must be developed with input from apprenticeship coordinators, the office of the superintendent of public instruction, the state board for community and technical colleges, the workforce training and education coordinating board, and other interested stakeholders for direct-entry programs.

(2) The Washington state apprenticeship and training council shall award up to ten incentive grants for the 2006-07 school year, based on guidelines established under subsection (1)(b) of this section, to school districts statewide

solely for personnel to negotiate and implement agreements with local apprenticeship programs based upon state apprenticeship use requirements, as described in RCW 39.04.320, to accept graduating secondary school students with appropriate training into apprenticeship programs. The council shall make every effort to award the grants evenly across the state.

(3) ((~~Beginning December 1, 2006,~~)) For any year in which grants are awarded in accordance with this section, the Washington state apprenticeship and training council shall provide ((~~an annual~~)) a report to the governor and the education and commerce and labor committees of the legislature. The report shall include:

(a) The guidelines established under subsection (1)(b) of this section;

(b) The names of the school districts receiving incentive grants under subsection (2) of this section;

(c) The results of negotiations between school districts receiving incentive grants and local apprenticeship programs;

(d) A list of apprenticeship programs that have agreed, pursuant to negotiated agreements, to accept qualified graduating secondary students; and

(e) The number of qualified graduating secondary students entering into apprenticeship programs each year through direct-entry programs.

Sec. 6. RCW 50.22.157 and 2011 c 4 s 15 are each amended to read as follows:

(1) The employment security department shall report to the appropriate committees of the legislature by December 1, ((~~2009~~)) 2016, and every ((~~year~~)) five years thereafter, on the status of the training benefits program and the resulting outcomes. The report shall include a survey based assessment of the employment outcomes for program participants within the previous three years. The department shall also include in its report:

(a) A demographic analysis of participants in the training benefits program under this section including the number of claimants per North American industry classification system code and the gender, race, age, and geographic representation of participants;

(b) The duration of training benefits claimed per claimant;

(c) An analysis of the training provided to participants including the occupational category supported by the training, whether the training received would lead to employment in a high-demand occupation, whether a degree or certificate is required in that occupational category to obtain employment, those participants who complete training in relationship to those that do not, the number of participants who take courses in basic language, reading, or writing skills to improve their employability, and the reasons for noncompletion of approved training programs;

(d) The employment and wage history of participants, including the pretraining and posttraining wage, the type of work participants were engaged in prior to unemployment, and whether those participating in training return to their previous employer within two years of receiving training, or are employed in a field for which they were retrained;

(e) An identification and analysis of administrative costs at both the local and state level for administering this program;

(f) A projection of program costs for the next fiscal year; and

(g) The total funds obligated for training benefits, and the net balance remaining to be obligated subject to the restrictions of RCW 50.22.140.

(2) The joint legislative audit and review committee is directed to conduct a thorough review and evaluation of the training benefits program on the following schedule:

(a) Three years after the implementation of the training benefits portion of chapter 4, Laws of 2011 and every five years thereafter; and

(b) In any year in which the employment security department is required to suspend obligation of training benefits funds pursuant to RCW 50.22.140(2), or total expenditures exceed twenty-five million dollars.

(3) As part of the review conducted under subsection (2) of this section, the joint legislative audit and review committee shall:

(a) Assess whether the program is complying with legislative intent;

(b) Assess whether the program is effective;

(c) Assess whether the program is operating in an efficient and economical manner which results in optimum performance; and

(d) Make recommendations on how to improve the training benefits program.

(4) After a review of the training benefits program has been completed by the joint legislative audit and review committee, the appropriate committees of the legislature must hold a public hearing on the review and consider potential changes to improve the program.

Sec. 7. RCW 70.41.045 and 2004 c 261 s 2 are each amended to read as follows:

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

(a) "Agency" means a department of state government created under RCW 43.17.010 and the office of the state auditor.

(b) "Audit" means an examination of records or financial accounts to evaluate accuracy and monitor compliance with statutory or regulatory requirements.

(c) "Hospital" means a hospital licensed under chapter 70.41 RCW.

(d) "Survey" means an inspection, examination, or site visit conducted by an agency to evaluate and monitor the compliance of a hospital or hospital services or facilities with statutory or regulatory requirements.

(2) By July 1, 2004, each state agency which conducts hospital surveys or audits shall post to its agency web site a list of the most frequent problems identified in its hospital surveys or audits along with information on how to avoid or address the identified problems, and a person within the agency that a hospital may contact with questions or for further assistance.

(3) By July 1, 2004, the department of health, in cooperation with other state agencies which conduct hospital surveys or audits, shall develop an instrument, to be provided to every hospital upon completion of a state survey or audit, which allows the hospital to anonymously evaluate the survey or audit process in terms of quality, efficacy, and the extent to which it supported improved patient care and compliance with state law without placing an unnecessary administrative burden on the hospital. The evaluation may be returned to the department of health for distribution to the appropriate agency. ((~~The department of health shall annually compile the evaluations in a report to the legislature.~~))

(4) Except when responding to complaints or immediate public health and safety concerns or when such prior notice would conflict with other state or federal law, any state agency that provides notice of a hospital survey or audit must provide such notice to the hospital no less than four weeks prior to the date of the survey or audit.

Sec. 8. RCW 72.10.020 and 2012 c 237 s 1 are each amended to read as follows:

(1) Upon entry into the correctional system, offenders shall receive an initial medical examination. The department shall prepare a health profile for each offender that includes at least the following information: (a) An identification of the offender's serious medical and dental needs; (b) an evaluation of the offender's capacity for work and recreation; and (c) a financial assessment of the offender's ability to pay for all or a portion of his or her health care services from personal resources or private insurance.

(2)(a) The department may develop and implement a plan for the delivery of health care services and personal hygiene items to offenders in the department's correctional facilities, at the discretion of the secretary, and in conformity with federal law.

(b) To discourage unwarranted use of health care services caused by unnecessary visits to health care providers, offenders shall participate in the costs of their health care services by paying an amount that is commensurate with their resources as determined by the department, or a nominal amount of no less than four dollars per visit, as determined by the secretary. Under the authority granted in RCW 72.01.050(2), the secretary may authorize the superintendent to collect this amount directly from an offender's institution account. All copayments collected from offenders' institution accounts shall be a reduction in the expenditures for offender health care at the department.

(c) Offenders are required to make copayments for initial health care visits that are offender initiated and, by rule adopted by the department, may be charged a copayment for subsequent visits related to the medical condition which caused the initial visit.

(d) No offender may be refused any health care service because of indigence.

(e) At no time shall the withdrawal of funds for the payment of a medical service copayment result in reducing an offender's institution account to an amount less than the level of indigency as defined in chapter 72.09 RCW.

(3) ((~~The department shall report annually to the legislature the following information for the fiscal year preceding the report: (a) The total number of health care visits made by offenders; (b) the total number of copayments assessed; (c) the total dollar amount of copayments collected; (d) the total number of copayments not collected due to an offender's indigency; and (e) the total number of copayments not assessed due to the serious or emergent nature of the health care treatment or because the health care visit was not offender initiated.~~

~~(4)~~))(a) The secretary shall adopt, by rule, a uniform policy relating to the distribution and replenishment of personal hygiene items for inmates incarcerated in all department institutions. The policy shall provide for the initial distribution of adequate personal hygiene items to inmates upon their arrival at an institution.

(b) The acquisition of replenishment personal hygiene items is the responsibility of inmates, except that indigent inmates shall not be denied adequate personal hygiene items based on their inability to pay for them.

(c) The policy shall provide that the replenishment personal hygiene items be distributed to inmates only in authorized quantities and at intervals that reflect prudent use and customary wear and consumption of the items.

((~~(5)~~)) (4) To the extent that federal law allows and federal financial participation is available, for the limited purpose of implementing this section, the department, or the department's designee, is authorized to act on behalf of an inmate for purposes of applying for medicaid eligibility.

((~~(6)~~)) (5) The following become a debt and are subject to RCW 72.09.450:

(a) All copayments under subsection (2) of this section that are not collected when the visit occurs; and

(b) All charges for replenishment personal hygiene items that are not collected when the item is distributed.

Sec. 9. RCW 74.14A.060 and 2011 1st sp.s. c 32 s 10 are each amended to read as follows:

Within available funds, the secretary of the department of social and health services shall support blended funding projects for youth. To be eligible for blended funding a child must be eligible for services designed to address a behavioral, mental, emotional, or substance abuse issue from the department of social and health services and require services from more than one categorical service delivery system. Before any blended funding project is established by the secretary, any entity or person proposing the project shall seek input from the public health and safety network or networks established in the catchment area of the project. The network or networks shall submit recommendations on the blended funding project to the private-public initiative described in RCW 70.305.020. The private-public initiative shall advise the secretary whether to approve the proposed blended funding project. The network shall review the proposed blended funding project pursuant to its authority to examine the decategorization of program funds under RCW 70.190.110, within the current appropriation level. The department shall document the number of children who participate in blended funding projects, the total blended funding amounts per child, the amount charged to each appropriation by program, and services provided to each child through each blended funding project ((~~and report this information to the appropriate committees of the legislature by December 1st of each year, beginning in December 1, 2000~~)).

Sec. 10. RCW 77.85.140 and 2009 c 518 s 9 and 2009 c 345 s 8 are each reenacted and amended to read as follows:

(1) Habitat project lists shall be submitted to the salmon recovery funding board for funding at least once a year on a schedule established by the board. The board shall provide the legislature with a list of the proposed projects and a list of the projects funded ((~~by October 1st of each year for informational purposes~~)) as part of the biennial report required in RCW 77.85.020. Project sponsors who complete salmon habitat projects approved for funding from habitat project lists and have met grant application deadlines will be paid by the salmon recovery funding board within thirty days of project completion.

(2) The recreation and conservation office shall track all funds allocated for salmon habitat projects and salmon recovery activities on behalf of the board, including both funds allocated by the board and funds allocated by other state or federal agencies for salmon recovery or water quality improvement.

Sec. 11. RCW 79A.25.350 and 2006 c 152 s 6 are each amended to read as follows:

(1) The council shall submit ((~~an annual~~)) a biennial report of its activities to the governor and the relevant policy committees of the senate and house of representatives by December 15th of each even-numbered year. The ((~~annual~~)) report must include an evaluation of progress made in the preceding ((~~year~~)) biennium to implement or carry out the strategic plan and an identification of projects from the strategic plan that will be a focus for the following ((~~year~~)) biennium.

(2) Prior to the start of the 2011 legislative session, the council must prepare a report to the appropriate committees of the legislature that makes recommendations as to the extension or modification of the council.

NEW SECTION. **Sec. 12.** The following acts or parts of acts are each repealed:

(1) RCW 18.27.342 (Report to the legislature) and 1997 c 314 s 19;

(2) RCW 28A.345.060 (Audit of staff classifications and employees' salaries—Contract with the office of financial management—Copies) and 2015 3rd sp.s. c 1 s 308, 2011 1st sp.s. c 43 s 467, 1986 c 158 s 3, & 1983 c 187 s 4;

(3) RCW 43.22.330 (Annual report) and 1977 c 75 s 49 & 1965 c 8 s 43.22.330;

(4) RCW 46.01.325 (Agent and subagent fees—Analysis and evaluation) and 2010 1st sp.s. c 7 s 138, 2005 c 319 s 116, & 1996 c 315 s 3;

(5) RCW 43.88.500 (State boards, commissions, councils, and committees—Legislative finding and declaration) and 1979 c 151 s 142 & 1977 c 23 s 1;

(6) RCW 43.88.505 (State boards, commissions, councils, and committees—Compilation of list, information) and 1979 c 151 s 143 & 1977 c 23 s 2;

(7) RCW 43.88.510 (State boards, commissions, councils, and committees—Submission of list and data to legislature) and 1996 c 288 s 42, 1987 c 505 s 37, 1979 c 151 s 144, & 1977 c 23 s 3; and

(8) RCW 43.88.515 (State boards, commissions, councils, and committees—Agencies to submit lists, information) and 1979 c 151 s 145 & 1977 c 23 s 4.

Passed by the House February 17, 2016.

Passed by the Senate March 4, 2016.

Approved by the Governor April 1, 2016.

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CHAPTER 198

[House Bill 2886]

ELECTRICAL SCOPE OF WORK--CERTAIN SPECIALTIES--MODIFICATION

AN ACT Relating to electrical scope of practice; amending RCW 19.28.095 and 19.28.191; and reenacting and amending RCW 19.28.400.

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

Sec. 1. RCW 19.28.095 and 2003 c 399 s 602 are each amended to read as follows:

(1) The scope of work for the equipment repair specialty involves servicing, maintaining, repairing, or replacing utilization equipment or wiring, appliances, devices, or equipment as specified by rule of the department.

(2) "Utilization equipment" means equipment that is: (a) Self-contained on a single skid or frame; (b) factory built to standardized sizes or types; (c) listed or field evaluated by a laboratory or approved by the department under WAC 296-46B-030; and (d) connected as a single unit to a single source of electrical power limited to a maximum of six hundred volts. The equipment may also be connected to a separate single source of electrical control power limited to a maximum of two hundred fifty volts. Utilization equipment does not include devices used for occupant space heating by industrial, commercial, hospital, educational, public, and private commercial buildings, and other end users.

(3) "Servicing, maintaining, repairing, or replacing utilization equipment" includes:

(a) The like-in-kind replacement of the equipment if the same unmodified electrical circuit is used to supply the equipment being replaced;

(b) The like-in-kind replacement or repair of remote control components that are integral to the operation of the equipment;

(c) The like-in-kind replacement or repair of electrical components within the equipment; and

(d) The disconnection, replacement, and reconnection of low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit.

(4) "Servicing, maintaining, repairing, or replacing utilization equipment" does not include:

(a) The installation, repair, or modification of wiring that interconnects equipment and/or remote components, branch circuit conductors, services, feeders, panelboards, disconnect switches, motor control centers, remote magnetic starters/contactors, or raceway/conductor systems interconnecting multiple equipment or other electrical components;

(b) Any work providing electrical feeds into the power distribution unit or installation of conduits and raceways; or

(c) Any electrical work governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations), except for electrical work in sewage pumping stations.

Sec. 2. RCW 19.28.191 and 2014 c 156 s 2 are each amended to read as follows:

(1) Upon receipt of the application, the department shall review the application and determine whether the applicant is eligible to take an

examination for the master journey level electrician, journey level electrician, master specialty electrician, or specialty electrician certificate of competency.

(a) Before July 1, 2005, an applicant who possesses a valid journey level electrician certificate of competency in effect for the previous four years and a valid general administrator's certificate may apply for a master journey level electrician certificate of competency without examination.

(b) Before July 1, 2005, an applicant who possesses a valid specialty electrician certificate of competency, in the specialty applied for, for the previous two years and a valid specialty administrator's certificate, in the specialty applied for, may apply for a master specialty electrician certificate of competency without examination.

(c) Before December 1, 2003, the following persons may obtain an equipment repair specialty electrician certificate of competency without examination:

(i) A person who has successfully completed an apprenticeship program approved under chapter 49.04 RCW for the machinist trade; and

(ii) A person who provides evidence in a form prescribed by the department affirming that: (A) He or she was employed as of April 1, 2003, by a factory-authorized equipment dealer or service company; and (B) he or she has worked in equipment repair for a minimum of four thousand hours.

(d) To be eligible to take the examination for a master journey level electrician certificate of competency, the applicant must have possessed a valid journey level electrician certificate of competency for four years.

(e) To be eligible to take the examination for a master specialty electrician certificate of competency, the applicant must have possessed a valid specialty electrician certificate of competency, in the specialty applied for, for two years.

(f) To be eligible to take the examination for a journey level certificate of competency, the applicant must have:

(i) Worked in the electrical construction trade for a minimum of eight thousand hours, of which four thousand hours shall be in industrial or commercial electrical installation under the supervision of a master journey level electrician or journey level electrician and not more than a total of four thousand hours in all specialties under the supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Specialty electricians with less than a four thousand hour work experience requirement cannot credit the time required to obtain that specialty towards qualifying to become a journey level electrician; or

(ii) Successfully completed an apprenticeship program approved under chapter 49.04 RCW for the electrical construction trade.

(g)(i) To be eligible to take the examination for a specialty electrician certificate of competency, the applicant must have:

(A) Worked in the residential (as specified in WAC 296-46B-920(2)(a)), pump and irrigation (as specified in WAC 296-46B-920(2)(b)), sign (as specified in WAC 296-46B-920(2)(d)), limited energy (as specified in WAC 296-46B-920(2)(e)), nonresidential maintenance (as specified in WAC 296-46B-920(2)(g)), or other new nonresidential specialties as determined by the department in rule under the supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's

specialty, or specialty electrician working in that electrician's specialty for a minimum of four thousand hours;

(B) Worked in the appliance repair specialty as determined by the department in rule, restricted nonresidential maintenance as determined by the department in rule, the equipment repair specialty as determined by the department in rule, the pump and irrigation specialty other than as defined by (g)(i)(A) of this subsection or domestic pump specialty as determined by the department in rule, or a specialty other than the designated specialties in (g)(i)(A) of this subsection for a minimum of the initial ninety days, or longer if set by rule by the department. The restricted nonresidential maintenance specialty is limited to a maximum of 277 volts and 20 amperes for lighting branch circuits and/or a maximum of 250 volts and 60 amperes for other circuits((~~, but excludes~~)) excluding the replacement or repair of circuit breakers. The department may alter the scope of work for the restricted nonresidential maintenance specialty by rule. The initial period must be spent under one hundred percent supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. After this initial period, a person may take the specialty examination. If the person passes the examination, the person may work unsupervised for the balance of the minimum hours required for certification. A person may not be certified as a specialty electrician in the appliance repair specialty or in a specialty other than the designated specialties in (g)(i)(A) of this subsection, however, until the person has worked a minimum of two thousand hours in that specialty, or longer if set by rule by the department; or

(C) Successfully completed an approved apprenticeship program under chapter 49.04 RCW for the applicant's specialty in the electrical construction trade.

(ii) In meeting the training requirements for the pump and irrigation or domestic pump specialties, the individual shall be allowed to obtain the experience required by this section at the same time the individual is meeting the experience required by RCW 18.106.040(1)(c). After meeting the training requirements provided in this section, the individual may take the examination and upon passing the examination, meeting additional training requirements as may still be required for those seeking a pump and irrigation, or a domestic pump specialty certificate as defined by rule, and paying the applicable fees, the individual must be issued the appropriate certificate. The department may include an examination for specialty plumbing certificate defined in RCW 18.106.010(10)(c) with the examination required by this section. The department, by rule and in consultation with the electrical board, may establish additional equivalent ways to gain the experience requirements required by this subsection. Individuals who are able to provide evidence to the department, prior to January 1, 2007, that they have been employed as a pump installer in the pump and irrigation or domestic pump business by an appropriately licensed electrical contractor, registered general contractor defined by chapter 18.27 RCW, or appropriate general specialty contractor defined by chapter 18.27 RCW for not less than eight thousand hours in the most recent six calendar years shall be issued the appropriate certificate by the department upon receiving such documentation and applicable fees. The department shall establish a single

document for those who have received both an electrical specialty certification as defined by this subsection and have also met the certification requirements for the specialty plumber as defined by RCW 18.106.010(10)(c), showing that the individual has received both certifications. No other experience or training requirements may be imposed.

(iii) Before July 1, 2015, an applicant possessing an electrical training certificate issued by the department is eligible to apply one hour of every two hours of unsupervised telecommunications system installation work experience toward eligibility for examination for a limited energy system certificate of competency (as specified in WAC 296-46B-920(2)(e)), if:

(A) The telecommunications work experience was obtained while employed by a contractor licensed under this chapter as a general electrical contractor (as specified in WAC 296-46B-920(1)) or limited energy system specialty contractor (as specified in WAC 296-46B-920(2)(e)); and

(B) Evidence of the telecommunications work experience is submitted in the form of an affidavit prescribed by the department.

(h) Any applicant for a journey level electrician certificate of competency who has successfully completed a two-year program in the electrical construction trade at public community or technical colleges, or not-for-profit nationally accredited technical or trade schools licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, may substitute up to two years of the technical or trade school program for two years of work experience under a master journey level electrician or journey level electrician. The applicant shall obtain the additional two years of work experience required in industrial or commercial electrical installation prior to the beginning, or after the completion, of the technical school program. Any applicant who has received training in the electrical construction trade in the armed service of the United States may be eligible to apply armed service work experience towards qualification to take the examination for the journey level electrician certificate of competency.

(i) An applicant for a specialty electrician certificate of competency who, after January 1, 2000, has successfully completed a two-year program in the electrical construction trade at a public community or technical college, or a not-for-profit nationally accredited technical or trade school licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, may substitute up to one year of the technical or trade school program for one year of work experience under a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Any applicant who has received training in the electrical construction trade in the armed services of the United States may be eligible to apply armed service work experience towards qualification to take the examination for an appropriate specialty electrician certificate of competency.

(j) The department must determine whether hours of training and experience in the armed services or school program are in the electrical construction trade and appropriate as a substitute for hours of work experience. The department must use the following criteria for evaluating the equivalence of classroom electrical training programs and work in the electrical construction trade:

(i) A two-year electrical training program must consist of three thousand or more hours.

(ii) In a two-year electrical training program, a minimum of two thousand four hundred hours of student/instructor contact time must be technical electrical instruction directly related to the scope of work of the electrical specialty. Student/instructor contact time includes lecture and in-school lab.

(iii) The department may not allow credit for a program that accepts more than one thousand hours transferred from another school's program.

(iv) Electrical specialty training school programs of less than two years will have all of the above student/instructor contact time hours proportionately reduced. Such programs may not apply to more than fifty percent of the work experience required to attain certification.

(v) Electrical training programs of less than two years may not be credited towards qualification for journey level electrician unless the training program is used to gain qualification for a four thousand hour electrical specialty.

(k) No other requirement for eligibility may be imposed.

(2) The department shall establish reasonable rules for the examinations to be given applicants for certificates of competency. In establishing the rules, the department shall consult with the board. Upon determination that the applicant is eligible to take the examination, the department shall so notify the applicant, indicating the time and place for taking the examination.

(3) No noncertified individual may work unsupervised more than one year beyond the date when the trainee would be eligible to test for a certificate of competency if working on a full-time basis after original application for the trainee certificate. For the purposes of this section, "full-time basis" means two thousand hours.

Sec. 3. RCW 19.28.400 and 2014 c 156 s 1 are each reenacted and amended to read as follows:

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

(1) "Board" means the electrical board under RCW 19.28.311.

(2) "Department" means the department of labor and industries.

(3) "Director" means the director of the department or the director's designee.

(4) "Telecommunications administrator" means a person designated by a telecommunications contractor to supervise the installation of telecommunications systems in accordance with rules adopted under this chapter.

(5) "Telecommunications backbone cabling systems" means a system that provides interconnections between telecommunications closets, equipment rooms, and entrance facilities in the telecommunications cabling system structure. Backbone cabling consists of the backbone cables, intermediate and main cross-connects, mechanical terminations, and patch cords or jumpers used for backbone to backbone cross-connection. Backbone cabling also includes cabling between buildings.

(6) "Telecommunications closet" means a room for housing telecommunications equipment, cable terminations, and cross-connect wiring that serve that particular floor. The closet is the recognized transition point between the backbone and horizontal cabling systems.

(7) "Telecommunications contractor" means a person, firm, partnership, corporation, or other entity that advertises, offers to undertake, undertakes, submits a bid for, or does the work of installing or maintaining telecommunications systems.

(8) "Telecommunications horizontal cabling systems" means the portions of the telecommunications cabling system that extend from the work area telecommunications outlet or connector to the telecommunications closet. The horizontal cabling includes the horizontal cables, the telecommunications outlet or connector in the work area, the mechanical termination, and horizontal cross-connections located in the telecommunications closet.

(9) "Telecommunications network demarcation point" means the point or interconnection between the service provider's communications cabling, terminal equipment, and protective apparatus and the customer's premises telecommunications cabling system. The location of this point for regulated carriers is determined by federal and state regulations. The carrier should be contacted to determine the location policies in effect in the area.

(10) "Telecommunications scope of work" means the work of a telecommunications contractor as defined in this section and as specified by rule of the department. This includes, but is not limited to, the installation, maintenance, and testing of telecommunications systems, equipment, and associated hardware, pathway systems, and cable management systems, which excludes cable tray and conduit raceway systems. The scope also includes installation of open wiring systems of telecommunications cables, surface nonmetallic raceways designated and used exclusively for telecommunications, optical fiber innerduct raceway, underground raceways designated and used exclusively for telecommunications and installed for additions or extensions to existing telecommunications systems not to exceed fifty feet inside the building, and incidental short sections of circular or surface metal raceway, not to exceed ten feet, for access or protection of telecommunications cabling and installation of cable trays and ladder racks in telecommunications service entrance rooms, spaces, or closets.

(11) "Telecommunications service entrance room or space" means a room or space used as the building serving facility in which the joining of inter-building and intra-building backbone facilities takes place. The service entrance room may also house electronic equipment serving any telecommunications function.

(12) A "telecommunications structured cabling system" is the complete collective configuration of cabling and associated hardware at a given site and installed to perform specific telecommunications functions.

(13) "Telecommunications systems" means structured cabling systems that begin at the demarcation point between the local service provider and the customer's premises structured cabling system or the wiring, appliances, devices, or equipment as specified by rule of the department.

(a) Telecommunications systems ((~~encompass~~)) include, but are not limited to, all forms of information generation, processing, and transporting of signals conveyed electronically or optically within or between buildings, including voice, data, video, and audio.

(b) Telecommunications systems include, but are not limited to, structured cabling systems, compatible connecting hardware, telecommunications equipment, premises switching equipment providing operational power to the

telecommunications device, infrared, fiber optic, radio-frequency, power distribution associated with telecommunications systems, and other limited-energy interconnections associated with telecommunications systems or appliances.

(c) Telecommunications systems do not include horizontal cabling used for fire protection signaling systems, intrusion alarms, access control systems, patient monitoring systems, energy management control systems, industrial and automation control systems, HVAC/refrigeration control systems, lighting or lighting control systems, and stand-alone amplified sound or public address systems.

(d) Telecommunications systems may interface with other building signal systems including security, alarms, and energy management at cross-connection junctions within telecommunications closets or at extended points of demarcation. Horizontal cabling for a telecommunications outlet, necessary to interface with any of these systems outside of a telecommunications closet, is the work of the telecommunications contractor. Telecommunications systems do not include the installation or termination of premises line voltage service, feeder, or branch circuit conductors or equipment.

(14) "Telecommunications worker" means a person primarily and regularly engaged in the installation and/or maintenance of telecommunications systems, equipment, and infrastructure as defined in this chapter.

(15) "Telecommunications workstation" means a building space where the occupant normally interacts with telecommunications equipment. The telecommunications outlet in the work area is the point at which end-user equipment plugs into the building telecommunications utility formed by the pathway, space, and building wiring system.

Passed by the House February 16, 2016.
Passed by the Senate March 2, 2016.
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CHAPTER 199

[Substitute House Bill 2900]

PRISONERS--PROHIBITED ITEMS--INTOXICANTS AND CELL PHONES

AN ACT Relating to prohibiting marijuana, alcohol, or other intoxicant, or a cell phone while confined or incarcerated in a state correctional institution; amending RCW 9.94.041, 9.92.151, and 9.94A.729; and prescribing penalties.

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

Sec. 1. RCW 9.94.041 and 1995 c 314 s 5 are each amended to read as follows:

(1) Every person serving a sentence in any state correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or carries upon his or her person or has under his or her control any narcotic drug or controlled substance, as defined in chapter 69.50 RCW, alcohol, marijuana, or other intoxicant, or a cell phone or

other form of an electronic telecommunications device, is guilty of a class C felony.

(2) Every person confined in a county or local correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or has under his or her control any narcotic drug or controlled substance, as defined in chapter 69.50 RCW, alcohol, marijuana, or other intoxicant, or a cell phone or other form of an electronic telecommunications device, is guilty of a class C felony.

(3) The sentence imposed under this section shall be in addition to any sentence being served.

***Sec. 2. RCW 9.92.151 and 2013 2nd sp.s. c 14 s 3 are each amended to read as follows:**

***(1) Except as provided in subsection (2) of this section, the sentence of a prisoner confined in a county jail facility for a felony, gross misdemeanor, or misdemeanor conviction may be reduced by earned release credits in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction. The earned early release time shall be for good behavior and good performance as determined by the correctional agency having jurisdiction. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. The correctional agency shall not credit the offender with earned early release credits in advance of the offender actually earning the credits. In the case of an offender convicted of a serious violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate earned early release time may not exceed fifteen percent of the sentence. In no other case may the aggregate earned early release time exceed one-third of the total sentence.**

***(2) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) or 9.94.041 is not eligible for earned early release credits under this section.**

***(3) If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the number of days of early release credits lost or not earned.**

***Sec. 2 was vetoed. See message at end of chapter.**

***Sec. 3. RCW 9.94A.729 and 2015 c 134 s 4 are each amended to read as follows:**

***(1)(a) The term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and adopted by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits.**

(b) Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the number of days of early release credits lost or not earned. The department may approve a jail certification from a correctional agency that calculates early release time based on the actual amount of confinement time served by the offender before sentencing when an erroneous calculation of confinement time served by the offender before sentencing appears on the judgment and sentence. The department must adjust an offender's rate of early release listed on the jail certification to be consistent with the rate applicable to offenders in the department's facilities. However, the department is not authorized to adjust the number of presentence early release days that the jail has certified as lost or not earned.

(2) An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(3) An offender may earn early release time as follows:

(a) In the case of an offender sentenced pursuant to RCW 10.95.030(3) or 10.95.035, the offender may not receive any earned early release time during the minimum term of confinement imposed by the court; for any remaining portion of the sentence served by the offender, the aggregate earned release time may not exceed ten percent of the sentence.

(b) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence.

(c) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(d) An offender is qualified to earn up to fifty percent of aggregate earned release time if he or she:

(i) Is not classified as an offender who is at a high risk to reoffend as provided in subsection (4) of this section;

(ii) Is not confined pursuant to a sentence for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) Has no prior conviction for the offenses listed in (d)(ii) of this subsection;

(iv) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(v) Has not committed a new felony after July 22, 2007, while under community custody.

(e) An offender serving a term of confinement imposed under RCW 9.94.041 is not eligible for earned early release credits under this section.

(f) In no other case shall the aggregate earned release time exceed one-third of the total sentence.

(4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection (3)(d) of this section utilizing the risk assessment tool recommended by the Washington state institute for public policy. Subsection (3)(d) of this section does not apply to offenders convicted after July 1, 2010.

(5)(a) A person who is eligible for earned early release as provided in this section and who will be supervised by the department pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to community custody in lieu of earned release time;

(b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community custody terms eligible for release to community custody in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(c) The department may deny transfer to community custody in lieu of earned release time if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody;

(d) If the department is unable to approve the offender's release plan, the department may do one or more of the following:

(i) Transfer an offender to partial confinement in lieu of earned early release for a period not to exceed three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in RCW 9.94A.728(((5))) (1)(e);

(ii) Provide rental vouchers to the offender for a period not to exceed three months if rental assistance will result in an approved release plan.

A voucher must be provided in conjunction with additional transition support programming or services that enable an offender to participate in services including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming;

(e) The department shall maintain a list of housing providers that meets the requirements of RCW 72.09.285. If more than two voucher recipients will

be residing per dwelling unit, as defined in RCW 59.18.030, rental vouchers for those recipients may only be paid to a housing provider on the department's list;

(f) For each offender who is the recipient of a rental voucher, the department shall gather data as recommended by the Washington state institute for public policy in order to best demonstrate whether rental vouchers are effective in reducing recidivism.

(6) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) is not eligible for earned release credits under this section.

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

Passed by the House February 16, 2016.

Passed by the Senate March 1, 2016.

Approved by the Governor April 1, 2016, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 4, 2016.

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

"I am returning herewith, without my approval as to Sections 2 and 3, Substitute House Bill No. 2900 entitled:

"AN ACT Relating to prohibiting marijuana, alcohol, or other intoxicant, or a cell phone while confined or incarcerated in a state correctional institution."

Sections 2 and 3 of this bill disallow earned time on the sentences imposed under this statute, something currently only done on special sex offender sentencing alternatives. It is highly unlikely that disallowing earned time would add to the deterrent effect of this bill, but it will certainly drive additional complications in sentencing calculation. If there is a desire to change the statutes regarding earned time, we should look at this holistically rather than in piecemeal.

For these reasons I have vetoed Sections 2 and 3 of Substitute House Bill No. 2900.

With the exception of Sections 2 and 3, Substitute House Bill No. 2900 is approved."

CHAPTER 200

[Engrossed Substitute House Bill 2908]

COMMUNITY POLICING STANDARDS--DEADLY FORCE--JOINT LEGISLATIVE TASK FORCE

AN ACT Relating to establishing the joint legislative task force on community policing standards for a safer Washington; creating new sections; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** The legislature recognizes the invaluable contributions of law enforcement officers, who risk their own lives every day to protect our families and communities. We hold law enforcement to a high standard in their positions of public trust and as the guardians in our communities, and the legislature applauds their efforts to show respect and

compassion to all citizens while holding individuals accountable for their criminal activity.

The legislature acknowledges that officers are often placed in harm's way and must make decisions quickly while under extreme stress. Although regrettable in every case, the use of deadly force may sometimes be necessary to protect the safety of others. The legislature also recognizes that both the people of this state and law enforcement officers themselves rely on and expect accountability, the failure of which damages the public trust in those who serve the public honorably and with compassion.

It is the intent of the legislature to improve our law in a manner that provides clear guidance to law enforcement, respects and supports the role of law enforcement to maintain public safety, and fosters accountability and public trust.

NEW SECTION. **Sec. 2.** (1) A joint legislative task force on the use of deadly force in community policing is established.

(2) The task force is composed of members as provided in this subsection.

(a) The president of the senate shall appoint one member from each of the two largest caucuses of the senate.

(b) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(c) The president of the senate and the speaker of the house of representatives jointly shall appoint:

(i) Members representing the following:

(A) Washington association of sheriffs and police chiefs;

(B) Washington state patrol;

(C) Washington council of police and sheriffs;

(D) Criminal justice training commission;

(E) Washington association of prosecuting attorneys;

(F) Washington association of criminal defense lawyers, public defender association, or the Washington defender association;

(G) Washington state association of counties;

(H) Association of Washington cities;

(I) National association for the advancement of colored people or its designee;

(J) Northwest immigration rights project;

(K) Black alliance of Thurston county;

(L) Disability rights Washington;

(M) Latino civic alliance;

(N) COMPAS (council of metropolitan police and sheriffs);

(O) Washington state fraternal order of police;

(P) One other association, community organization, advocacy group, or faith-based organization with experience or interest in community policing; and

(Q) One other association representing law enforcement officers who represent traditionally underrepresented communities; and

(ii) A member representing a liberty organization.

(d) The governor shall appoint four members representing the following:

(i) Washington state commission on Hispanic affairs;

(ii) Washington state commission on Asian Pacific American affairs;

(iii) Washington state commission on African-American affairs; and

(iv) Governor's office of Indian affairs.

(3) The task force shall:

(a) Review laws, practices, and training programs regarding the use of deadly force in Washington state and other states;

(b) Review current policies, practices, and tools used by or otherwise available to law enforcement as an alternative to lethal uses of force, including tasers and other nonlethal weapons; and

(c) Recommend best practices to reduce the number of violent interactions between law enforcement officers and members of the public.

(4) The task force may review literature and reports on the use of deadly force, and may consult with persons, organizations, and entities with interest or experience in community policing including, but not limited to, law enforcement, local governments, professional associations, community organizations, advocacy groups, and faith-based organizations.

(5) The legislative membership shall convene the initial meeting of the task force no later than July 1, 2016. The task force shall convene at least four meetings in 2016. The task force shall choose its cochairs from among its legislative membership, which must include one representative from the house of representatives and one senator from the senate.

(6) The task force shall submit a report, which may include findings and recommendations, to the governor and the appropriate committees of the legislature by December 1, 2016. A minority report must be submitted along with the task force's report if requested by any member of the task force.

(7) Staff support for the task force shall be provided by the senate committee services and the house office of program research.

(8) Legislative members of the task force are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(9) The expenses of the task force shall 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 executive rules committee, or their successor committees.

(10) This section expires December 31, 2016.

Passed by the House March 10, 2016.
Passed by the Senate March 9, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 201

[House Bill 2918]

CITIES AND TOWNS--TRAFFIC SCHOOL--COUNTY CONSENT

AN ACT Relating to granting a city or town the authority to establish and operate a traffic school without county consent, control, or supervision; and amending RCW 46.83.010, 46.83.020, and 46.83.030.

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

Sec. 1. RCW 46.83.010 and 1961 c 12 s 46.83.010 are each amended to read as follows:

Any city ((~~or~~)), town ((~~and the~~)), or county ((~~in which it is located are authorized, as may be agreed between the respective governing bodies of the city or town and county, to~~)) may establish a traffic school for the purposes and under the conditions set forth in this chapter. ((~~Such~~)) A city ((~~or~~)), town ((~~and~~)), or county traffic school may be ((~~effected~~)) established whenever the governing body of the city ((~~or~~)), town ((~~shall pass~~)), or county adopts an ordinance ((~~and the board of commissioners of the county shall pass~~)) or a resolution declaring the intention to organize and operate a traffic school in accordance with ((~~agreements had between them as to~~)) the financing, organization, and operation ((~~thereof~~)) of the traffic school as described in the ordinance or resolution.

Sec. 2. RCW 46.83.020 and 1961 c 12 s 46.83.020 are each amended to read as follows:

A traffic school established under this chapter shall be under the control and supervision of the ((~~board of county commissioners~~)) governing body of the city, town, or county that has established the traffic school, through such agents, assistants, or instructors as the ((~~board~~)) governing body may designate((~~, and~~)). The traffic school of a city, town, or county shall be conducted with the assistance of ((~~the county sheriff and~~)) the police department of the city or town or with the assistance of the county sheriff.

Sec. 3. RCW 46.83.030 and 1961 c 12 s 46.83.030 are each amended to read as follows:

All funds appropriated by the city ((~~or~~)), town ((~~and~~)), or county to the operation of the traffic school shall be deposited with the city, town, or county treasurer and shall be administered by the ((~~board of county commissioners~~)) governing body of the city, town, or county. The governing bodies of every city ((~~or~~)), town ((~~and~~)), or county participating in the operation of traffic schools are authorized to make such appropriations by ordinance or resolution, as the case may be, as they shall determine for the establishment and operation of traffic schools, and they are further authorized to accept and expend gifts, donations, and any other money from any source, private or public, given for the purpose of said schools.

Passed by the House February 11, 2016.
Passed by the Senate March 4, 2016.
Approved by the Governor April 1, 2016.
Filed in Office of Secretary of State April 4, 2016.

CHAPTER 202

[Substitute House Bill 2359]

OBSOLETE PROVISIONS--TECHNICAL CORRECTIONS

AN ACT Relating to updating obsolete provisions and making technical corrections; amending RCW 6.21.040, 6.23.030, 9.96.020, 10.14.085, 10.37.040, 11.28.090, 11.28.140, 11.68.110, 11.88.140, 12.04.020, 12.04.030, 12.04.100, 12.04.201, 12.04.203, 12.04.204, 12.04.205, 12.04.206, 12.04.207, 12.40.110, 17.28.090, 18.44.251, 19.120.040, 26.04.090, 26.18.100, 26.50.085, 35.22.110, 35.58.090, 35A.08.120, 36.24.110, 36.60.020, 36.68.470, 41.50.590, 43.20B.040, 58.09.080, 60.08.020, 61.12.020, 64.04.030, 64.04.040, 64.04.050, 64.08.060,

64.08.070, 65.12.035, 65.12.125, 65.12.230, 65.12.235, 65.12.255, 65.12.270, 67.38.030, 84.40.320, 85.28.060, 88.32.070, 88.32.140, 91.08.380, 49.12.450, 43.07.173, 43.07.190, and 43.07.400; amending 2013 2nd sp.s. c 4 s 1905 (uncodified); reenacting and amending RCW 36.32.080; reenacting RCW 28B.15.069 and 43.19.501; repealing RCW 19.27A.035, 43.07.050, 43.07.090, 43.07.100, 43.07.110, and 43.07.205; and providing expiration dates.

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

PART I

CORRECTING FORM YEAR DESIGNATIONS

Sec. 1. RCW 6.21.040 and 1987 c 442 s 604 are each amended to read as follows:

The notice of sale shall be printed or typed and shall be in substantially the following form, except that if the sale is not pursuant to a judgment of foreclosure of a mortgage or a statutory lien, the notice shall also contain a statement that the sheriff has been informed that there is not sufficient personal property to satisfy the judgment and that if the judgment debtor or debtors do have sufficient personal property to satisfy the judgment, the judgment debtor or debtors should contact the sheriff's office immediately:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR .... COUNTY

Plaintiff, vs. Defendant.	CAUSE NO. SHERIFF'S NOTICE TO JUDGMENT DEBTOR OF SALE OF REAL PROPERTY

TO: [Judgment Debtor]

The Superior Court of ..... County has directed the undersigned Sheriff of ..... County to sell the property described below to satisfy a judgment in the above-entitled action. The property to be sold is described on the reverse side of this notice. If developed, the property address is: .....

The sale of the above-described property is to take place:

Time: .....

Date: .....

Place: .....

The judgment debtor can avoid the sale by paying the judgment amount of $ ...., together with interest, costs, and fees, before the sale date. For the exact amount, contact the sheriff at the address stated below:

This property is subject to: (check one)

□ 1. No redemption rights after sale.

□ 2. A redemption period of eight months which will expire at 4:30 p.m. on the .... day of ....., ((~~19 ...~~)) (year) ....

□ 3. A redemption period of one year which will expire at 4:30 p.m. on the .... day of ....., ((~~19 ...~~)) (year) ....

The judgment debtor or debtors or any of them may redeem the above described property at any time up to the end of the redemption period by paying the amount bid at the sheriff's sale plus additional costs, taxes, assessments, certain other amounts, fees, and interest. If you are interested in redeeming the property contact the undersigned sheriff at the address stated below to determine the exact amount necessary to redeem.

IMPORTANT NOTICE: IF THE JUDGMENT DEBTOR OR DEBTORS DO NOT REDEEM THE PROPERTY BY 4:30 p.m. ON THE . . . . DAY OF . . . . . ., ((~~19 . . .~~)) (year) . . . ., THE END OF THE REDEMPTION PERIOD, THE PURCHASER AT THE SHERIFF'S SALE WILL BECOME THE OWNER AND MAY EVICT THE OCCUPANT FROM THE PROPERTY UNLESS THE OCCUPANT IS A TENANT HOLDING UNDER AN UNEXPIRED LEASE. IF THE PROPERTY TO BE SOLD IS OCCUPIED AS A PRINCIPAL RESIDENCE BY THE JUDGMENT DEBTOR OR DEBTORS AT THE TIME OF SALE, HE, SHE, THEY, OR ANY OF THEM MAY HAVE THE RIGHT TO RETAIN POSSESSION DURING THE REDEMPTION PERIOD, IF ANY, WITHOUT PAYMENT OF ANY RENT OR OCCUPANCY FEE. THE JUDGMENT DEBTOR MAY ALSO HAVE A RIGHT TO RETAIN POSSESSION DURING ANY REDEMPTION PERIOD IF THE PROPERTY IS USED FOR FARMING OR IF THE PROPERTY IS BEING SOLD UNDER A MORTGAGE THAT SO PROVIDES.

. . . . . SHERIFF-DIRECTOR, ... COUNTY, WASHINGTON.

By . . . . . ., Deputy
Address . . . . . .
City . . . . . .
Washington 9 . . . .
Phone (. . .) . . . . . .

Sec. 2. RCW 6.23.030 and 1987 c 442 s 703 are each amended to read as follows:

(1) If the property is subject to a homestead as provided in chapter 6.13 RCW, the purchaser, or the redemptioner if the property has been redeemed, shall send a notice, in the form prescribed in subsection (3) of this section, at least forty but not more than sixty days before the expiration of the judgment debtor's redemption period both by regular mail and by certified mail, return receipt requested, to the judgment debtor or debtors and to each of them

separately, if there is more than one judgment debtor, at their last known address or addresses and to "occupant" at the property address. The party who sends the notice shall file a copy of the notice with an affidavit of mailing with the clerk of the court and deliver or mail a copy to the sheriff.

(2) Failure to comply with this section extends the judgment debtor's redemption period six months. If the redemption period is extended, no further notice need be sent. Time for redemption by redemptioners shall not be extended.

(3) The notice and affidavit of mailing required by subsection (1) of this section shall be in substantially the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR . . . . COUNTY

Plaintiff, vs. Defendant.	CAUSE NO. NOTICE OF EXPIRATION OF REDEMPTION PERIOD

TO: [Judgment Debtor]

THIS IS AN IMPORTANT NOTICE AFFECTING YOUR RIGHT TO RETAIN YOUR PROPERTY.

NOTICE IS HEREBY GIVEN that the period for redemption of the following described real property ("the property") is expiring. The property is situated in the County of . . . . . ., State of Washington, to wit:

. . . . . [legal description] . . . . . and commonly known as . . . . . ., which was sold by . . . . . ., ... County Sheriff, in . . . ., ... County, Washington on the . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . ., under and by virtue of a writ of execution and order of sale issued by the court in the above-entitled action.

THE REDEMPTION PERIOD FOR THE PROPERTY IS . . . . MONTHS. THE REDEMPTION PERIOD COMMENCED ON . . . . . ., ((~~19 . . .~~)) (year) . . . ., AND WILL EXPIRE AT 4:30 p.m. ON . . . . . ., ((~~19 . . .~~)) (year) . . . .

If you intend to redeem the property described above you must give written notice of your intention to the . . . . . County Sheriff on or before . . . . . ., ((~~19 . . .~~)) (year) . . . .

Following is an itemized account of the amount required to redeem the property to date:

Item	Amount
Purchase price paid at sale	$

Interest from date of sale to date of this notice at . . . percent per annum $
Real estate taxes plus interest $
Assessments plus interest $
Liens or other costs paid by purchaser or purchaser's successor during redemption period plus interest $
Lien of redemptioner $
TOTAL REQUIRED TO REDEEM AS OF THE DATE OF THIS NOTICE $

You may redeem the property by 4:30 p.m. on or before the . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . ., by paying the amount set forth above and such other amounts as may be required by law. Payment must be in the full amount and in cash, certified check, or cashier's check. Because such other amounts as may be required by law to redeem may include presently unknown expenditures required to operate, preserve, protect, or insure the property, or the amount to comply with state or local laws, or the amounts of prior liens, with interest, held by the purchaser or a redemptioner, it will be necessary for you to contact the . . . . . County Sheriff at the address stated below prior to the time you tender the redemption amount so that you may be informed exactly how much you will have to pay to redeem the property.

. . . . . SHERIFF-DIRECTOR, ... COUNTY, WASHINGTON.

By . . . . . ., Deputy
Address . . . . . .
City . . . . . .
Washington 9 . . . .
Phone (. . .) . . . . . .

IF YOU FAIL TO REDEEM THE PROPERTY BY 4:30 p.m. ON OR BEFORE THE . . . . DAY OF . . . . . ., ((~~19 . . .~~)) (year) . . . ., THE DATE UPON WHICH THE REDEMPTION PERIOD WILL EXPIRE, THE PURCHASER OR THE PURCHASER'S SUCCESSOR WILL BE ENTITLED TO POSSESSION OF THE PROPERTY AND MAY BRING AN ACTION TO EVICT YOU FROM POSSESSION OF THE PROPERTY.

DATED THIS . . . . DAY OF . . . . . ., ((~~19 . . .~~)) (year) . . . .

[Purchaser]

By
[Purchaser's attorney]
Attorneys for

STATE OF WASHINGTON)
) ss.
COUNTY OF)

The undersigned being first duly sworn on oath states: That on this day affiant deposited in the mails of the United States of America a properly stamped and addressed envelope directed to the judgment debtor at the address stated on the face of this document and to "occupant" at the property address, both by certified mail, return receipt requested, and by first-class mail, all of the mailings containing a copy of the document to which this affidavit is attached.

SIGNED AND SWORN TO BEFORE ME THIS . . . . DAY OF . . . . . ., ((~~19 . . .~~)) (year) . . . ., BY . . . . . (name of person making statement)

. . . . . .
Title . . . . . .
My appointment expires
. . . . . ., ((~~19 . . .~~)) (year) . . . .

Sec. 3. RCW 9.96.020 and 2012 c 117 s 4 are each amended to read as follows:

Whenever the governor shall determine to restore his or her civil rights to any person convicted of an infamous crime in any superior court of this state, he or she shall execute and file in the office of the secretary of state an instrument in writing in substantially the following form:

"To the People of the State of Washington
Greeting:

I, the undersigned Governor of the State of Washington, by virtue of the power vested in my office by the constitution and laws of the State of Washington, do by these presents restore to . . . . . his or her civil rights forfeited by him (or her) by reason of his (or her) conviction of the crime of . . . . . (naming it) in the Superior Court for the County of . . . . . ., on to-wit: The . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . .

Dated the . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . .

(Signed) . . . . . .

Governor of Washington."

Sec. 4. RCW 10.14.085 and 1992 c 143 s 12 are each amended to read as follows:

(1) If the respondent was not personally served with the petition, notice of hearing, and ex parte order before the hearing, the court shall reset the hearing for twenty-four days from the date of entry of the order and may order service by publication instead of personal service under the following circumstances:

(a) The sheriff or municipal officer files an affidavit stating that the officer was unable to complete personal service upon the respondent. The affidavit must describe the number and types of attempts the officer made to complete service;

(b) The petitioner files an affidavit stating that the petitioner believes that the respondent is hiding from the server to avoid service. The petitioner's affidavit must state the reasons for the belief that the ((~~petitioner [respondent]~~)) respondent is avoiding service;

(c) The server has deposited a copy of the summons, in substantially the form prescribed in subsection (3) of this section, notice of hearing, and the ex parte order of protection in the post office, directed to the respondent at the respondent's last known address, unless the server states that the server does not know the respondent's address; and

(d) The court finds reasonable grounds exist to believe that the respondent is concealing himself or herself to avoid service, and that further attempts to personally serve the respondent would be futile or unduly burdensome.

(2) The court shall reissue the temporary order of protection not to exceed another twenty-four days from the date of reissuing the ex parte protection order and order to provide service by publication.

(3) The publication shall be made in a newspaper of general circulation in the county where the petition was brought and in the county of the last known address of the respondent once a week for three consecutive weeks. The newspaper selected must be one of the three most widely circulated papers in the county. The publication of summons shall not be made until the court orders service by publication under this section. Service of the summons shall be considered complete when the publication has been made for three consecutive weeks. The summons must be signed by the petitioner. The summons shall contain the date of the first publication, and shall require the respondent upon whom service by publication is desired, to appear and answer the petition on the date set for the hearing. The summons shall also contain a brief statement of the reason for the petition and a summary of the provisions under the ex parte order. The summons shall be essentially in the following form:

In the . . . . . court of the state of Washington for the county of . . . . . .

. . . . . ., Petitioner

vs. No. . . . . .

. . . . . ., Respondent

The state of Washington to . . . . . (respondent):

You are hereby summoned to appear on the . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . ., at . . . . a.m./p.m., and respond to the petition. If you fail to respond, an order of protection will be issued against you pursuant to the provisions of chapter 10.14 RCW, for a minimum of one year from the date you are required to appear. A temporary order of protection has been issued against you, restraining you from the following: (Insert a brief statement of the provisions of the ex parte order). A copy of the petition, notice of hearing, and ex parte order has been filed with the clerk of this court.

. . . . . .
Petitioner . . . . . .

Sec. 5. RCW 10.37.040 and 2010 c 8 s 1036 are each amended to read as follows:

The indictment may be substantially in the following form:

State of Washington v. A. . . . . B.	Superior Court of the State of Washington for the County of

A. B. is accused by the grand jury of the . . . . . ., by this indictment, of the crime of [here insert the name of the crime, if it have one, such as treason, murder, arson, manslaughter, or the like; or if it be a crime having no general name, such as libel, assault and battery, and the like, insert a brief description of it as given by law], committed as follows:

The said A. B. on the . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . ., in the county of . . . . . ., aforesaid, [here set forth the act charged as a crime.]

Dated at . . . . . ., in the county aforesaid, the . . . . day of . . . . . ., A.D. ((~~19. . .~~)) (year) . . . .

(Signed) C. D., Prosecuting Attorney.

(Indorsed) A true bill.

(Signed) E. F., Foreperson of the Grand Jury.

Sec. 6. RCW 11.28.090 and 2009 c 549 s 1004 are each amended to read as follows:

Letters testamentary to be issued to executors under the provisions of this chapter shall be signed by the clerk, and issued under the seal of the court, and may be in the following form:

State of Washington, county of . . . . . .

In the superior court of the county of . . . . . .

Whereas, the last will of A B, deceased, was, on the . . . . day of . . . . . , A.D.((~~, ...~~)) (year) . . . ., duly exhibited, proven, and recorded in our said superior court; and whereas, it appears in and by said will that C D is appointed executor thereon, and, whereas, said C D has duly qualified, now, therefore, know all persons by these presents, that we do hereby authorize the said C D to execute said will according to law.

Witness my hand and the seal of said court this . . . . day of . . . . . ., A.D.((~~, 19. . .~~)) (year) . . . .

Sec. 7. RCW 11.28.140 and 2009 c 549 s 1005 are each amended to read as follows:

Letters of administration shall be signed by the clerk, and be under the seal of the court, and may be substantially in the following form:

State of Washington, County of . . . . . .

Whereas, A.B., late of . . . . . on or about the . . . . day of . . . . . A.D.((~~, ...~~)) (year) . . . . died intestate, leaving at the time of his or her death, property in this state subject to administration: Now, therefore, know all persons by these presents, that we do hereby appoint . . . . . administrator upon said estate, and whereas said administrator has duly qualified, hereby authorize him or her to administer the same according to law.

Witness my hand and the seal of said court this . . . . day of . . . . . A.D.((~~, 19. . .~~)) (year) . . . .

Sec. 8. RCW 11.68.110 and 1998 c 292 s 202 are each amended to read as follows:

(1) If a personal representative who has acquired nonintervention powers does not apply to the court for either of the final decrees provided for in RCW 11.68.100 as now or hereafter amended, the personal representative shall, when the administration of the estate has been completed, file a declaration that must state as follows:

(a) The date of the decedent's death and the decedent's residence at the time of death;

(b) Whether or not the decedent died testate or intestate;

(c) If the decedent died testate, the date of the decedent's last will and testament and the date of the order probating the will;

(d) That each creditor's claim which was justly due and properly presented as required by law has been paid or otherwise disposed of by agreement with the creditor, and that the amount of estate taxes due as the result of the decedent's death has been determined, settled, and paid;

(e) That the personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed;

(f) If the decedent died intestate, the names, addresses (if known), and relationship of each heir of the decedent, together with the distributive share of each heir; and

(g) The amount of fees paid or to be paid to each of the following: (i) Personal representative or representatives; (ii) lawyer or lawyers; (iii) appraiser or appraisers; and (iv) accountant or accountants; and that the personal representative believes the fees to be reasonable and does not intend to obtain court approval of the amount of the fees or to submit an estate accounting to the court for approval.

(2) Subject to the requirement of notice as provided in this section, unless an heir, devisee, or legatee of a decedent petitions the court either for an order requiring the personal representative to obtain court approval of the amount of fees paid or to be paid to the personal representative, lawyers, appraisers, or accountants, or for an order requiring an accounting, or both, within thirty days from the date of filing a declaration of completion of probate, the personal representative will be automatically discharged without further order of the court and the representative's powers will cease thirty days after the filing of the declaration of completion of probate, and the declaration of completion of probate shall, at that time, be the equivalent of the entry of a decree of distribution in accordance with chapter 11.76 RCW for all legal intents and purposes.

(3) Within five days of the date of the filing of the declaration of completion, the personal representative or the personal representative's lawyer shall mail a copy of the declaration of completion to each heir, legatee, or devisee of the decedent, who: (a) Has not waived notice of the filing, in writing, filed in the cause; and (b) either has not received the full amount of the distribution to which the heir, legatee, or devisee is entitled or has a property right that might be affected adversely by the discharge of the personal representative under this section, together with a notice which shall be substantially as follows:

CAPTION OF CASE

NOTICE OF FILING OF DECLARATION OF COMPLETION OF PROBATE

NOTICE IS GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . .; unless you shall file a petition in the above-entitled court requesting the court to approve the reasonableness of the fees, or for an accounting, or both, and serve a copy thereof upon the personal representative or the personal representative's lawyer, within thirty days after the date of the filing, the amount of fees paid or to be paid will be deemed reasonable, the acts of the personal representative will be deemed approved, the personal representative will be automatically discharged without further order of the court, and the Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place thereof, by mail, or personal service, not less than ten days before the hearing on the petition.

Dated this . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . .

. . . . . .
Personal Representative

(4) If all heirs, devisees, and legatees of the decedent entitled to notice under this section waive, in writing, the notice required by this section, the personal representative will be automatically discharged without further order of the court and the declaration of completion of probate will become effective as a decree of distribution upon the date of filing thereof. In those instances where the personal representative has been required to furnish bond, and a declaration of completion is filed pursuant to this section, any bond furnished by the personal representative shall be automatically discharged upon the discharge of the personal representative.

Sec. 9. RCW 11.88.140 and 2011 c 329 s 7 are each amended to read as follows:

(1) TERMINATION WITHOUT COURT ORDER. A guardianship or limited guardianship is terminated:

(a) Upon the attainment of full and legal age, as defined in RCW 26.28.010 as now or hereafter amended, of any person defined as an incapacitated person pursuant to RCW 11.88.010 as now or hereafter amended solely by reason of youth, RCW 26.28.020 to the contrary notwithstanding, subject to subsection (2) of this section;

(b) By an adjudication of capacity or an adjudication of termination of incapacity;

(c) By the death of the incapacitated person;

(d) By expiration of the term of limited guardianship specified in the order appointing the limited guardian, unless prior to such expiration a petition has been filed and served, as provided in RCW 11.88.040 as now or hereafter amended, seeking an extension of such term.

(2) TERMINATION OF GUARDIANSHIP FOR A MINOR BY DECLARATION OF COMPLETION. A guardianship for the benefit of a minor may be terminated upon the minor's attainment of legal age, as defined in RCW 26.28.010 as now or hereafter amended, by the guardian filing a declaration that states:

(a) The date the minor attained legal age;

(b) That the guardian has paid all of the minor's funds in the guardian's possession to the minor, who has signed a receipt for the funds, and that the receipt has been filed with the court;

(c) That the guardian has completed the administration of the minor's estate and the guardianship is ready to be closed; and

(d) The amount of fees paid or to be paid to each of the following: (i) The guardian, (ii) lawyer or lawyers, (iii) accountant or accountants; and that the guardian believes the fees are reasonable and does not intend to obtain court approval of the amount of the fees or to submit a guardianship accounting to the court for approval. Subject to the requirement of notice as provided in this section, unless the minor petitions the court either for an order requiring the guardian to obtain court approval of the amount of fees paid or to be paid to the guardian, lawyers, or accountants, or for an order requiring an accounting, or both, within thirty days from the filing of the declaration of completion of

guardianship, the guardian shall be automatically discharged without further order of the court. The guardian's powers will cease thirty days after filing the declaration of completion of guardianship. The declaration of completion of guardianship shall, at the time, be the equivalent of an entry of a decree terminating the guardianship, distributing the assets, and discharging the guardian for all legal intents and purposes.

Within five days of the date of filing the declaration of completion of guardianship, the guardian or the guardian's lawyer shall mail a copy of the declaration of completion to the minor together with a notice that shall be substantially as follows:

CAPTION OF CASE NOTICE OF FILING A DECLARATION OF COMPLETION OF GUARDIANSHIP

NOTICE IS GIVEN that the attached Declaration of Completion of Guardianship was filed by the undersigned in the above-entitled court on the . . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . .; unless you file a petition in the above-entitled court requesting the court to review the reasonableness of the fees, or for an accounting, or both, and serve a copy of the petition on the guardian or the guardian's lawyer, within thirty days
after the filing date, the amount of fees paid or to be paid will be deemed reasonable, the acts of the guardian will be deemed approved, the guardian will be automatically discharged without further order of the court and the Declaration of Completion of Guardianship will be final and deemed the equivalent of an order terminating the guardianship, discharging the guardian and decreeing the distribution of the guardianship assets.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place of the hearing, by mail, or by personal service, not less than ten days before the hearing on the petition.

DATED this . . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . .

. . . . . .
Guardian

If the minor, after reaching legal age, waives in writing the notice required by this section, the guardian will be automatically discharged without further order of the court and the declaration of completion of guardianship will be effective as an order terminating the guardianship without an accounting upon

filing the declaration. If the guardian has been required to furnish a bond, and a declaration of completion of guardianship is filed according to this section, any bond furnished by the guardian shall be automatically discharged upon the discharge of the guardian.

(3) TERMINATION ON COURT ORDER. A guardianship or limited guardianship may be terminated by court order after such notice as the court may require if the guardianship or limited guardianship is no longer necessary.

The guardian or limited guardian shall, within ninety days of the date of termination of the guardianship, unless the court orders a different deadline for good cause, prepare and file with the court a final verified account of administration. The final verified account of administration shall contain the same information as required for (a) an intermediate verified account of administration of the estate under RCW 11.92.040(2) and (b) an intermediate personal care status report under RCW 11.92.043(2).

(4) EFFECT OF TERMINATION. When a guardianship or limited guardianship terminates other than by the death of the incapacitated person, the powers of the guardian or limited guardian cease, except that a guardian or limited guardian of the estate may make disbursements for claims that are or may be allowed by the court, for liabilities already properly incurred for the estate or for the incapacitated person, and for expenses of administration. When a guardianship or limited guardianship terminates by death of the incapacitated person, the guardian or limited guardian of the estate may proceed under RCW 11.88.150 as now or hereafter amended, but the rights of all creditors against the incapacitated person's estate shall be determined by the law of decedents' estates.

Sec. 10. RCW 12.04.020 and 2010 c 8 s 3001 are each amended to read as follows:

A party desiring to commence an action before a justice of the peace, for the recovery of a debt by summons, shall file his or her claim with the justice of the peace, verified by his or her own oath, or that of his or her agent or attorney, and thereupon the justice of the peace shall, on payment of his or her fees, if demanded, issue a summons to the opposite party, which summons shall be in the following form, or as nearly as the case will admit, viz:

The State of Washington, }
. . . . . County. } ss.

To the sheriff or any constable of said county:

In the name of the state of Washington, you are hereby commanded to summon . . . . . if he or she (or they) be found in your county to be and appear before me at . . . . . on . . . . day of . . . . . at . . . . o'clock p.m. or a.m., to answer the complaint of . . . . . for a failure to pay him or her a certain demand, amounting to . . . . . dollars and . . . . cents, upon . . . . . (here state briefly the nature of the claim) and of this writ make due service and return.

Given under my hand this .... day of ..... ((~~19 ...~~)) (year) ....

....., Justice of the Peace.

And the summons shall specify a certain place, day and hour for the appearance and answer of the defendant, not less than six nor more than twenty days from the date of filing plaintiff's claim with the justice, which summons shall be served at least five days before the time of trial mentioned therein, and shall be served by the officer delivering to the defendant, or leaving at his or her place of abode with some person over twelve years of age, a true copy of such summons, certified by the officer to be such.

Sec. 11. RCW 12.04.030 and 2010 c 8 s 3002 are each amended to read as follows:

Any person desiring to commence an action before a justice of the peace, by the service of a complaint and notice, can do so by filing his or her complaint verified by his or her own oath or that of his or her agent or attorney with the justice, and when such complaint is so filed, upon payment of his or her fees if demanded, the justice shall attach thereto a notice, which shall be substantially as follows:

The State of Washington,
..... County. } ss.

To .....

You are hereby notified to be and appear at my office in ..... on the .... day of ....., ((~~19 ...~~)) (year) ... , at the hour of .... M., to answer to the foregoing complaint or judgment will be taken against you as confessed and the prayer of the plaintiff granted.

Dated ....., ((~~19 ...~~)) (year) ....

....., J. P.

Sec. 12. RCW 12.04.100 and 1985 c 469 s 6 are each amended to read as follows:

In case personal service cannot be had by reason of the absence of the defendant from the county in which the action is sought to be commenced, it shall be proper to publish the summons or notice with a brief statement of the object and prayer of the claim or complaint, in some newspaper of general circulation in the county wherein the action is commenced, which notice shall be published not less than once a week for three weeks prior to the time fixed for the hearing of the cause, which shall not be less than four weeks from the first publication of the notice.

The notice may be substantially as follows:

The State of Washington,
County of . . . . . } ss.

In justice's court, ... justice.

To . . . . . .

You are hereby notified that . . . . . has filed a complaint (or claim as the case may be) against you in said court which will come on to be heard at my office in . . . . . ., in . . . . . county, state of Washington, on the . . . . day of . . . . . ., A.D. ((~~19 . . .~~)) (year) . . . ., at the hour of . . . . o'clock . . . .m., and unless you appear and then and there answer, the same will be taken as confessed and the demand of the plaintiff granted. The object and demand of said claim (or complaint, as the case may be) is (here insert a brief statement).

Complaint filed . . . . . ., A.D. ((~~19 . . .~~)) (year) . . . .
. . . . . ., J. P.

Sec. 13. RCW 12.04.201 and 2010 c 8 s 3014 are each amended to read as follows:

FORM OF SUBPOENA

State of Washington,
County of . . . . . ., } ss.

To . . . . . :

In the name of the state of Washington, you are hereby required to appear before the undersigned, one of the justices of the peace in and for said county, on the . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . ., at . . . . o'clock in the . . . . noon, at his or her office in . . . . . ., to give evidence in a certain cause, then and there to be tried, between A B, plaintiff, and C D, defendant, on the part of (the plaintiff, or defendant as the case may be).

Given under my hand this . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . .

J. P., Justice of the Peace.

Sec. 14. RCW 12.04.203 and 2010 c 8 s 3015 are each amended to read as follows:

FORM OF EXECUTION

State of Washington,
County of . . . . . ., } ss.

To the sheriff or any constable of said county:

Whereas, judgment against C D, for the sum of . . . . . dollars, and . . . . . dollars cost of suit, was recovered on the . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . ., before the undersigned, one of the justices of the peace in and for said county, at the suit of A B. These are, therefore, in the name of the state of Washington, to command you to levy on the goods and chattels of the said C D (excepting such as the law exempts), and make sale thereof according to law, to the amount of said sum and costs upon this writ, and the same return to me within thirty days, to be rendered to the said A B, for his or her debt, interests and costs.

Given under my hand this . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . .

J. P., Justice of the Peace.

FORM OF EXECUTION AGAINST PRINCIPAL AND SURETY, AFTER EXPIRATION OF STAY OF EXECUTION

State of Washington,
County of . . . . . ., } ss.

To the sheriff or any constable of said county:

Whereas, judgment against C D for the sum of . . . . . dollars, and for . . . . . dollars, costs of suit, was recovered on the . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . ., before the undersigned, one of the justices of the peace in and for said county, at the suit of A B; and whereas, on the . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . ., E F became surety to pay said judgment and costs, in . . . . . month from the date of the judgment aforesaid, agreeably to law, in the payment of which said C D and E F have failed; these are, therefore, in the name, etc., [as in the common form].

Sec. 15. RCW 12.04.204 and 1957 c 89 s 6 are each amended to read as follows:

FORM OF ORDER IN REPLEVIN

State of Washington,
County of . . . . . ., } ss.

To the sheriff or any constable of said county:

In the name of the state of Washington, you are hereby commanded to take the personal property mentioned and described in the within affidavit, and deliver the same to the plaintiff, upon receiving a proper undertaking, unless before such delivery, the defendant enter into a sufficient undertaking for the delivery thereof to the plaintiff, if delivery be adjudged.

Given under my hand this . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . .

J. P., Justice of the Peace.

Sec. 16. RCW 12.04.205 and 1957 c 89 s 7 are each amended to read as follows:

FORM OF A WRIT OF ATTACHMENT

State of Washington,
County of . . . . . ., } ss.

To the sheriff or any constable of said county:

In the name of the state of Washington, you are commanded to attach, and safely keep, the goods and chattels, moneys, effects and credits of C D, (excepting such as the law exempts), or so much thereof as shall satisfy the sum of . . . . . dollars, with interest and cost of suit, in whosesoever hands or possession the same may be found in your county, and to provide that the goods and chattels so attached may be subject to further proceeding thereon, as the law requires; and of this writ make legal service and due return.

Given under my hand this . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . .

J. P., Justice of the Peace.

Sec. 17. RCW 12.04.206 and 2010 c 8 s 3016 are each amended to read as follows:

FORM OF UNDERTAKING IN REPLEVIN

Whereas, A B, plaintiff, has commenced an action before J P, one of the justices of the peace in and for . . . . . county, against C D, defendant, for the recovery of certain personal property, mentioned and described in the affidavit of the plaintiff, to wit: [here set forth the property claimed]. Now, therefore we, A

B, plaintiff, E F and G H, acknowledge ourselves bound unto C D in the sum of . . . . . dollars for the prosecution of the action for the return of the property to the defendant, if return thereof be adjudged, and for the payment to him or her of such sum as may for any cause be recovered against the plaintiff.

Dated the . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . . A B, E F, G H.

Sec. 18. RCW 12.04.207 and 2010 c 8 s 3017 are each amended to read as follows:

FORM OF UNDERTAKING IN ATTACHMENT

Whereas, an application has been made by A B, plaintiff, to J P, one of the justices of the peace in and for . . . . . county, for a writ of attachment against the personal property of C D, defendant; Now, therefore, we, A B, plaintiff, and E F, acknowledge ourselves bound to C D in the sum of . . . . . dollars, that if the defendant recover judgment in this action, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he or she may sustain by reason of the said attachment and not exceeding the sum of . . . . . dollars.

Dated the . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . . A B, E F.

FORM OF UNDERTAKING
TO DISCHARGE ATTACHMENT

Whereas, a writ of attachment has been issued by J P, one of the justices of the peace in and for . . . . . county, against the personal property of C D, defendant, in an action in which A B is plaintiff; Now, therefore, we C D, defendant, E F, and G H, acknowledge ourselves bound unto J K, constable, in the sum of . . . . . dollars, [double the value of the property], engaging to deliver the property attached, to wit: [here set forth a list of articles attached], or pay the value thereof to the sheriff or constable, to whom the execution upon a judgment obtained by plaintiff in the aforesaid action may be issued.

Dated this . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . . C D, E F, G H.

Sec. 19. RCW 12.40.110 and 1998 c 52 s 6 are each amended to read as follows:

(1) If the losing party fails to pay the judgment according to the terms and conditions thereof within thirty days or is in arrears on any payment plan, and the prevailing party so notifies the court, the court shall certify the judgment in substantially the following form:

Washington.

In the District Court of . . . . . County.

. . . . . Plaintiff,

vs.

. . . . . Defendant.

In the Small Claims Department.

This is to certify that: (1) In a certain action on the .... day of ..... ((~~19...~~)) (year) ...., wherein ..... was plaintiff and ..... defendant, jurisdiction of said defendant having been had by personal service (or otherwise) as provided by law, judgment was entered against ..... in the sum of ..... dollars; (2) the judgment has not been paid within ((~~twenty~~)) thirty days or the period otherwise ordered by the court; and (3) pursuant to RCW 12.40.105, the amount of the judgment is hereby increased by any costs of certification under this section and the amount specified in RCW 36.18.012(2).

Witness my hand this .... day of ....., ((~~19...~~)) (year) ....

.....
Clerk of the Small Claims Department.

(2) The clerk shall forthwith enter the judgment transcript on the judgment docket of the district court; and thereafter garnishment, execution, and other process on execution provided by law may issue thereon, as in other judgments of district courts.

(3) Transcripts of such judgments may be filed and entered in judgment lien dockets in superior courts with like effect as in other cases.

Sec. 20. RCW 17.28.090 and 2011 c 336 s 464 are each amended to read as follows:

If, from the testimony given before the county commissioners, it appears to that board that the public necessity or welfare requires the formation of the district, it shall, by an order entered on its minutes, declare that to be its finding, and shall further declare and order that the territory within the boundaries so fixed and determined be organized as a district, under an appropriate name to be selected by the county commissioners, subject to approval of the voters of the district as hereinafter provided. The name shall contain the words "mosquito control district."

At the time of the declaration establishing and naming the district, the county commissioners shall by resolution call a special election to be held not less than thirty days and not more than sixty days from the date thereof, and shall cause to be published a notice of such election at least once a week for three consecutive weeks in a newspaper of general circulation in the county, setting forth the hours during which the polls will be open, the boundaries of the proposed district as finally adopted, and the object of the election. If any portion of the proposed district lies in another county, a notice of such election shall likewise be published in that county.

The election on the formation of the mosquito control district shall be conducted by the auditor of the county in which the greater area of the proposed district is located in accordance with the general election laws of the state and the results thereof shall be canvassed by that county's canvassing board. For the purpose of conducting an election under this section, the auditor of the county in which the greater area of the proposed district is located may appoint the auditor of any county or the city clerk of any city lying wholly or partially within the

proposed district as his or her deputies. No person shall be entitled to vote at such election unless he or she is a qualified voter under the laws of the state in effect at the time of such election and has resided within the mosquito control district for at least thirty days preceding the date of the election. The ballot proposition shall be in substantially the following form:

"Shall a mosquito control district be established for the area described in a resolution of the board of commissioners of . . . . . county adopted on the . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . .?

YES . . . . . □
NO . . . . . □"

If a majority of the persons voting on the proposition shall vote in favor thereof, the mosquito control district shall thereupon be established and the county commissioners of the county in which the greater area of the district is situated shall immediately file for record in the office of the county auditor of each county in which any portion of the land embraced in the district is situated, and shall also forward to the county commissioners of each of the other counties, if any, in which any portion of the district is situated, and also shall file with the secretary of state, a certified copy of the order of the county commissioners. From and after the date of the filing of the certified copy with the secretary of state, the district named therein is organized as a district, with all the rights, privileges, and powers set forth in this chapter, or necessarily incident thereto.

If a majority of the persons voting on the proposition shall vote in favor thereof, all expenses of the election shall be paid by the mosquito control district when organized. If the proposition fails to receive a majority of votes in favor, the expenses of the election shall be borne by the respective counties in which the district is located in proportion to the number of votes cast in said counties.

Sec. 21. RCW 18.44.251 and 2011 1st sp.s. c 21 s 47 are each amended to read as follows:

A request for a waiver of the required errors and omissions policy may be accomplished under the statute by submitting to the director an affidavit that substantially addresses the following:

REQUEST FOR WAIVER OF
ERRORS AND OMISSIONS POLICY

I, ..., residing at . . . . . ., City of . . . . . ., County of . . . . . ., State of Washington, declare the following:

(1) An errors and omissions policy is not reasonably available to a substantial number of licensed escrow officers; and

(2) Purchasing an errors and omissions policy is cost-prohibitive at this time; and

(3) I have not engaged in any conduct that resulted in the termination of my escrow certificate; and

(4) I have not paid, directly or through an errors and omissions policy, claims in excess of ten thousand dollars, exclusive of costs and attorneys' fees, during the calendar year preceding submission of this affidavit; and

(5) I have not paid, directly or through an errors and omissions policy, claims, exclusive of costs and attorneys' fees, totaling in excess of twenty thousand dollars in the three calendar years immediately preceding submission of this affidavit; and

(6) I have not been convicted of a crime involving honesty or moral turpitude during the calendar year preceding submission of this application.

THEREFORE, in consideration of the above, I, ..., respectfully request that the director of financial institutions grant this request for a waiver of the requirement that I purchase and maintain an errors and omissions policy covering my activities as an escrow agent licensed by the state of Washington for the period from . . . . . ., ((~~19 . . .~~)) (year) . . . ., to . . . . . ., ((~~19 . . .~~)) (year) . . . .

Submitted this day of . . . . day of . . . . . ., ((~~19 . . .~~)) (year) . . . .

. . . . . .
(signature)

State of Washington, }
ss.
County of . . . . . }

I certify that I know or have satisfactory evidence that . . . . . ., signed this instrument and acknowledged it to be . . . . . free and voluntary act for the uses and purposes mentioned in the instrument.

Dated . . . . . .
Signature of
Notary Public . . . . . .
(Seal or stamp) Title . . . . . .
My appointment expires . . . . . .

Sec. 22. RCW 19.120.040 and 1986 c 320 s 5 are each amended to read as follows:

Notwithstanding the terms of any motor fuel franchise, the interest of a motor fuel retailer under such an agreement shall be considered personal property and shall devolve on the death of the motor fuel retailer to a designated successor in interest of the retailer, limited to the retailer's spouse, adult child, or adult stepchild or, if no successor in interest is designated, to the retailer's

spouse, if any. The designation shall be made, witnessed in writing by at least two persons, and delivered to the motor fuel refiner-supplier during the term of the franchise. The designation may be revised at any time by the motor fuel retailer and shall be substantially in the following form:

"I (motor fuel retailer name) at the . . . . . service station located at . . . . . ., in the City of . . . . . ., Washington, designate . . . . . as my successor in interest under RCW 19.120.030 and . . . . . as my alternate successor if the originally designated successor is unable or unwilling so to act.

I so specify this . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . ."

The motor fuel refiner-supplier shall assist the designated successor in interest temporarily in the day-to-day operation of the service station to insure continued operation of the service station.

Sec. 23. RCW 26.04.090 and 1967 c 26 s 4 are each amended to read as follows:

A person solemnizing a marriage shall, within thirty days thereafter, make and deliver to the county auditor of the county wherein the license was issued a certificate for the files of the county auditor, and a certificate for the files of the state registrar of vital statistics. The certificate for the files of the county auditor shall be substantially as follows:

STATE OF WASHINGTON }

COUNTY OF . . . . . }

This is to certify that the undersigned, a . . . . . ., by authority of a license bearing date the . . . . day of . . . . . A.D.((~~, 19. . .~~)) (year) . . . ., and issued by the County auditor of the county of . . . . . ., did, on the . . . . day of . . . . . A.D.((~~, 19. . .~~)) (year) . . . ., at . . . . . in this county and state, join in lawful wedlock A.B. of the county of . . . . . ., state of . . . . . and C.D. of the county of . . . . . ., state of . . . . . ., with their mutual assent, in the presence of F H and E G, witnesses.

In Testimony Whereof, witness the signatures of the parties to said ceremony, the witnesses and myself, this . . . . day of . . . . . ., A.D.((~~, 19. . .~~)) (year) . . . .

The certificate for the files of the state registrar of vital statistics shall be in accordance with RCW 70.58.200. The certificate forms for the files of the county auditor and for the files of the state registrar of vital statistics shall be provided by the state registrar of vital statistics.

Sec. 24. RCW 26.18.100 and 2008 c 6 s 1033 are each amended to read as follows:

The wage assignment order shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON IN AND FOR THE
COUNTY OF . . . . . .

. . . . . ,
Obligee
vs.
. . . . . ,
Obligor
. . . . . ,
Employer

No. . . . .

WAGE ASSIGNMENT
ORDER

THE STATE OF WASHINGTON TO: . . . . . .
Employer
AND TO: . . . . . .
Obligor

The above-named obligee claims that the above-named obligor is subject to a support order requiring immediate income withholding or is more than fifteen days past due in either child support or maintenance payments, or both, in an amount equal to or greater than the child support or maintenance payable for one month. The amount of the accrued child support or maintenance debt as of this date is . . . . . dollars, the amount of arrearage payments specified in the support or maintenance order (if applicable) is . . . . . dollars per . . . . ., and the amount of the current and continuing support or maintenance obligation under the order is . . . . . dollars per . . . . .

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the Washington state support registry, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this wage assignment order upon you.

If you possess any earnings or other remuneration for employment due and owing to the obligor, then you shall do as follows:

(1) Withhold from the obligor's earnings or remuneration each month, or from each regular earnings disbursement, the lesser of:

(a) The sum of the accrued support or maintenance debt and the current support or maintenance obligation;

(b) The sum of the specified arrearage payment amount and the current support or maintenance obligation; or

(c) Fifty percent of the disposable earnings or remuneration of the obligor.

(2) The total amount withheld above is subject to the wage assignment order, and all other sums may be disbursed to the obligor.

(3) Upon receipt of this wage assignment order you shall make immediate deductions from the obligor's earnings or remuneration and remit to the Washington state support registry or other address specified below the proper amounts within five working days of each regular pay interval.

You shall continue to withhold the ordered amounts from nonexempt earnings or remuneration of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated; or

(b) The addressee specified in the wage assignment order under this section that the accrued child support or maintenance debt has been paid.

You shall promptly notify the court and the addressee specified in the wage assignment order under this section if and when the employee is no longer employed by you, or if the obligor no longer receives earnings or remuneration from you. If you no longer employ the employee, the wage assignment order shall remain in effect until you are no longer in possession of any earnings or remuneration owed to the employee.

You shall deliver the withheld earnings or remuneration to the Washington state support registry or other address stated below within five working days of each regular pay interval.

You shall deliver a copy of this order to the obligor as soon as is reasonably possible. This wage assignment order has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support or maintenance, or order to withhold or deliver under chapter 74.20A RCW.

WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR THE AMOUNT OF SUPPORT MONEYS THAT SHOULD HAVE BEEN WITHHELD FROM THE OBLIGOR'S EARNINGS OR SUBJECT TO CONTEMPT OF COURT.

NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER. REGARDLESS OF THE FACT THAT YOUR WAGES ARE BEING WITHHELD PURSUANT TO THIS ORDER, YOU MAY HAVE SUSPENDED OR NOT RENEWED A PROFESSIONAL, DRIVER'S, OR OTHER LICENSE IF YOU ACCRUE CHILD SUPPORT ARREARAGES TOTALING MORE THAN SIX MONTHS OF CHILD SUPPORT PAYMENTS OR FAIL TO MAKE PAYMENTS TOWARDS A SUPPORT ARREARAGE IN AN AMOUNT THAT EXCEEDS SIX MONTHS OF PAYMENTS.

DATED THIS . . . . day of . . . ., ((~~19. . .~~)) (year) . . . .

. . . . .	. . . . .
Obligee,	Judge/Court Commissioner
or obligee's attorney	
Send withheld payments to:	
	. . . . .
	. . . . .
	. . . . .
	. . . . .

Sec. 25. RCW 26.50.085 and 1992 c 143 s 4 are each amended to read as follows:

(1) If the respondent was not personally served with the petition, notice of hearing, and ex parte order before the hearing, the court shall reset the hearing for twenty-four days from the date of entry of the order and may order service by publication instead of personal service under the following circumstances:

(a) The sheriff or municipal officer files an affidavit stating that the officer was unable to complete personal service upon the respondent. The affidavit must describe the number and types of attempts the officer made to complete service;

(b) The petitioner files an affidavit stating that the petitioner believes that the respondent is hiding from the server to avoid service. The petitioner's affidavit must state the reasons for the belief that the ((~~petitioner [respondent]~~)) respondent is avoiding service;

(c) The server has deposited a copy of the summons, in substantially the form prescribed in subsection (3) of this section, notice of hearing, and the ex parte order of protection in the post office, directed to the respondent at the respondent's last known address, unless the server states that the server does not know the respondent's address; and

(d) The court finds reasonable grounds exist to believe that the respondent is concealing himself or herself to avoid service, and that further attempts to personally serve the respondent would be futile or unduly burdensome.

(2) The court shall reissue the temporary order of protection not to exceed another twenty-four days from the date of reissuing the ex parte protection order and order to provide service by publication.

(3) The publication shall be made in a newspaper of general circulation in the county where the petition was brought and in the county of the last known address of the respondent once a week for three consecutive weeks. The newspaper selected must be one of the three most widely circulated papers in the county. The publication of summons shall not be made until the court orders service by publication under this section. Service of the summons shall be considered complete when the publication has been made for three consecutive weeks. The summons must be signed by the petitioner. The summons shall contain the date of the first publication, and shall require the respondent upon whom service by publication is desired, to appear and answer the petition on the date set for the hearing. The summons shall also contain a brief statement of the reason for the petition and a summary of the provisions under the ex parte order. The summons shall be essentially in the following form:

In the . . . . . court of the state of Washington for the county of . . . . . .

. . . . . , Petitioner

vs. No. . . . . .

. . . . . , Respondent

The state of Washington to . . . . . (respondent):

You are hereby summoned to appear on the . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . ., at . . . . a.m./p.m., and respond to the petition. If you fail to respond, an order of protection will be issued against you pursuant to the provisions of the domestic violence protection act, chapter 26.50 RCW, for a minimum of one year from the date you are required to appear. A temporary order of protection has been issued against you, restraining you from the following: (Insert a brief statement of the provisions of the ex parte order). A copy of the petition, notice of hearing, and ex parte order has been filed with the clerk of this court.

. . . . . .

Petitioner . . . . . .

Sec. 26. RCW 35.22.110 and 1965 ex.s. c 47 s 10 are each amended to read as follows:

The authentication of the charter shall be by certificate of the mayor in substance as follows:

"I . . . . . ., mayor of the city of . . . . . do hereby certify that in accordance with the provisions of the Constitution and statutes of the State of Washington, the city of . . . . . caused fifteen freeholders to be elected on the . . . . day of . . . . . ((~~19. . .~~)) (year) . . . , to prepare a charter for the city; that due notice of that election was given in the manner provided by law and that the following persons were declared elected to prepare and propose a charter for the city, to wit: . . . . . .

That thereafter on the . . . . day of . . . . . ((~~19. . .~~)) (year) . . . . the board of freeholders returned a proposed charter for the city of . . . . . signed by the following members thereof: . . . . . .

That thereafter the proposed charter was published in (Indicate name of newspaper in which published) for at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval. (Indicate dates of publication)

That thereafter on the . . . . day of . . . . . ((~~19. . .~~)) (year) . . . ., at an election duly called and held, the proposed charter was submitted to the qualified electors thereof, and the returns canvassed resulting as follows: For the proposed charter, ... votes; against the proposed charter, ... votes; majority for the proposed charter, ... votes; whereupon the charter was declared adopted by a majority of the qualified electors voting at the election.

I further certify that the foregoing is a full, true and complete copy of the proposed charter so voted upon and adopted as aforesaid.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the corporate seal of said city at my office this . . . . day of . . . . . ((~~19. . .~~)) (year) . . .

Attest:

. . . .

Mayor of the city of

Clerk of the city of . . . . . (Corporate Seal)."

Immediately after authentication, the authenticated charter shall be recorded by the city clerk in a book provided for that purpose known as the charter book of the city of . . . . . and when so recorded shall be attested by the clerk and mayor under the corporate seal of the city. All amendments shall be in like manner recorded and attested.

All courts shall take judicial notice of a charter and all amendments thereto when recorded and attested as required in this section.

Sec. 27. RCW 35.58.090 and 1993 c 240 s 3 are each amended to read as follows:

The election on the formation of the metropolitan municipal corporation shall be conducted by the auditor of the central county in accordance with the general election laws of the state and the results thereof shall be canvassed by the county canvassing board of the central county, which shall certify the result of the election to the county legislative authority of the central county, and shall cause a certified copy of such canvass to be filed in the office of the secretary of state. Notice of the election shall be published in one or more newspapers of general circulation in each component county in the manner provided in the general election laws. No person shall be entitled to vote at such election unless that person is a qualified voter under the laws of the state in effect at the time of such election and has resided within the metropolitan area for at least thirty days preceding the date of the election. The ballot proposition shall be in substantially the following form:

"FORMATION OF METROPOLITAN
MUNICIPAL CORPORATION

Shall a metropolitan municipal corporation be established for the area described in a resolution of the county legislative authority of . . . . . county adopted on the . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . ., to perform the metropolitan functions of . . . . . (here insert the title of each of the functions to be authorized as set forth in the petition or initial resolution).

YES . . . . . .□

NO . . . . . □ "

If a majority of the persons voting on the proposition residing within the central city shall vote in favor thereof and a majority of the persons voting on the proposition residing in the metropolitan area outside of the central city shall vote in favor thereof, the metropolitan municipal corporation shall thereupon be established and the county legislative authority of the central county shall adopt a resolution setting a time and place for the first meeting of the metropolitan council which shall be held not later than sixty days after the date of such election. A copy of such resolution shall be transmitted to the legislative body of each component city and county and of each special district which shall be affected by the particular metropolitan functions authorized.

At the same election there shall be submitted to the voters residing within the metropolitan area, for their approval or rejection, a proposition authorizing the metropolitan municipal corporation, if formed, to levy at the earliest time permitted by law on all taxable property located within the metropolitan

municipal corporation a general tax, for one year, of twenty-five cents per thousand dollars of assessed value in excess of any constitutional or statutory limitation for authorized purposes of the metropolitan municipal corporation. The proposition shall be expressed on the ballots in substantially the following form:

"ONE YEAR TWENTY-FIVE CENTS
PER THOUSAND DOLLARS OF
ASSESSED VALUE LEVY

Shall the metropolitan municipal corporation, if formed, levy a general tax of twenty-five cents per thousand dollars of assessed value for one year upon all the taxable property within said corporation in excess of the constitutional and/or statutory tax limits for authorized purposes of the corporation?

YES . . . . . .□
NO . . . . . □ "

Such proposition to be effective must be approved by a majority of at least three-fifths of the persons voting on the proposition to levy such tax, with a forty percent validation requirement, in the manner set forth in Article VII, section 2(a) of the Constitution of this state.

Sec. 28. RCW 35A.08.120 and 1967 ex.s. c 119 s 35A.08.120 are each amended to read as follows:

The authentication of the charter shall be by certificate of the mayor in substance as follows:

"I, ..., mayor of the city of . . . . ., do hereby certify that in accordance with the provisions of the Constitution and statutes of the state of Washington, the city of . . . . . caused fifteen freeholders to be elected on the . . . . . day of . . . . . ., ((~~19. .~~)) (year) . . . . as a charter commission to prepare a charter for the city; that due notice of that election was given in the manner provided by law and that the following persons were declared elected to prepare and propose a charter for the city, to wit:

That thereafter on the . . . . day of . . . . . ., ((~~19. .~~)) (year) . . . . the charter commission returned a proposed charter for the city of . . . . . signed by the following members thereof: . . . . . .

That thereafter the proposed charter was published in . . . . . (indicate name of newspaper in which published), for at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval.

(Indicate dates of publication.)

That thereafter on the . . . . day of . . . . . ., ((~~19. .~~)) (year) . . . ., at an election duly called and held, the proposed charter was submitted to the qualified electors thereof, and the returns canvassed resulting as follows: For the proposed charter . . . . votes; against the proposed charter, ... votes; majority for the proposed charter, ... votes; whereupon the charter was declared adopted by a majority of the qualified electors voting at the election.

I further certify that the foregoing is a full, true and complete copy of the proposed charter so voted upon and adopted as aforesaid.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the corporate seal of the said city at my office this . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . .

. . . . . .
Mayor of the city of . . . . . .

Attest:

. . . . . .
Clerk of the city of . . . . . (corporate seal)."

Immediately after authentication, the authenticated charter shall be recorded by the city clerk in a book provided for that purpose known as the charter book of the city of . . . . . and when so recorded shall be attested by the clerk and mayor under the corporate seal of the city. All amendments shall be in like manner recorded and attested.

All courts shall take judicial notice of a charter and all amendments thereto when recorded and attested as required in this section.

Sec. 29. RCW 36.24.110 and 2009 c 549 s 4037 are each amended to read as follows:

The coroner's warrant shall be in substantially the following form:

State of Washington, }
} ss.
County of. . . . . }

To any sheriff or constable of the county.

An inquisition having been this day found by the coroner's jury, before me, stating that A B has come to his or her death by the act of C D, by criminal means (or as the case may be, as found by the inquisition), you are therefore commanded, in the name of the state of Washington, forthwith to arrest the above named C D, and take him or her before the nearest or most accessible magistrate in this county.

Given under my hand this . . . . day of . . . . . ., A.D. ((~~19. . .~~)) (year) . . . .

E F, coroner of the county of. . . . . .

Sec. 30. RCW 36.60.020 and 1983 c 303 s 9 are each amended to read as follows:

(1) A county legislative authority proposing to establish a county rail district, or to modify the boundaries of an existing county rail district, or to dissolve an existing county rail district, shall conduct a hearing at the time and place specified in a notice published at least once, not less than ten days prior to the hearing, in a newspaper of general circulation within the proposed county rail district. This notice shall be in addition to any other notice required by law to be published. Additional notice of the hearing may be given by mail, posting within the proposed county rail district, or in any manner the county legislative authority deems necessary to notify affected persons. All hearings shall be

public and the county legislative authority shall hear objections from any person affected by the formation, modification of the boundaries, or dissolution of the county rail district.

(2) Following the hearing held under subsection (1) of this section, the county legislative authority may adopt a resolution providing for the submission of a proposal to establish a county rail district, modify the boundaries of an existing county rail district, or dissolve an existing county rail district, if the county legislative authority finds the proposal to be in the public interest. The resolution shall contain the boundaries of the district if applicable.

A proposition to create a county rail district, modify the boundaries of an existing county rail district, or dissolve an existing rail district shall be submitted to the affected voters at the next general election held sixty or more days after the adoption of the resolution providing for the submittal by the county legislative authority. The resolution shall establish the boundaries of the district and include a finding that the creation of the district is in the public interest and that the area included within the district can reasonably be expected to benefit from its creation. No portion of a city may be included in such a district unless the entire city is included.

The district shall be created upon approval of the proposition by simple majority vote. The ballot proposition submitted to the voters shall be in substantially the following form:

FORMATION OF COUNTY RAIL DISTRICT . . . . . .

Shall a county rail district be established for the area described in a resolution of the legislative authority of . . . . . county, adopted on the . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . .?

Yes . . . . . .

No . . . . . .

Sec. 31. RCW 36.68.470 and 1981 c 210 s 6 are each amended to read as follows:

(1) Upon making findings under the provisions of RCW 36.68.460, the county legislative authority shall, by resolution, order an election of the voters of the proposed park and recreation service area to determine if the service area shall be formed. The county legislative authority shall in their resolution direct the county auditor to set the election to be held at the next general election or at a special election held for such purpose; describe the purposes of the proposed service area; set forth the estimated cost of any initial improvements or services to be financed by the service area should it be formed; describe the method of financing the initial improvements or services described in the resolution or petition; and order that notice of election be published in a newspaper of general circulation in the county at least twice prior to the election date.

(2) A proposition to form a park and recreation service area shall be submitted to the voters of the proposed service area. Upon approval by a majority of the voters voting on the proposition, a park and recreation service area shall be established. The proposition submitted to the voters by the county auditor on the ballot shall be in substantially the following form:

FORMATION OF PARK AND
RECREATION SERVICE AREA

Shall a park and recreation service area be established for the area described in a resolution of the legislative authority of . . . . . county, adopted on the . . . . day of . . . . . ((~~19. . .~~)) (year) . . . ., to provide financing for neighborhood park facilities, improvements, and services?

Yes . . . . . No . . . . . .

Sec. 32. RCW 41.50.590 and 1991 c 365 s 8 are each amended to read as follows:

The mandatory benefits assignment order shall be in the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF

. . . . . .

. . . . . ,	
Obligee	No. . . . .
vs.	
	MANDATORY
. . . . . ,	BENEFITS ASSIGNMENT
Obligor	ORDER

. . . . . ,

The Department of Retirement Systems of the State of Washington

THE STATE OF WASHINGTON TO: The Department of Retirement Systems

AND TO: . . . . . Obligor

The above-named obligee claims that the above-named obligor is more than fifteen days past due in spousal maintenance payments and that the total amount of such past due payments is equal to or greater than one hundred dollars or that the obligor has requested a withdrawal of accumulated contributions from the department of retirement systems. The amount of the accrued past due spousal maintenance debt as of this date is . . . . . dollars. If the obligor is receiving periodic retirement payments from the department, the amount to be withheld from the obligor's benefits to satisfy such accrued spousal maintenance is . . . . . dollars per month and the amount to be withheld from the obligor's benefits to satisfy current and continuing spousal maintenance is . . . . . per month. Upon satisfaction of the accrued past due spousal maintenance debt, the department shall withhold only . . . . . dollars, the amount necessary to satisfy current and continuing spousal maintenance from the obligor's benefits. If the obligor has requested a withdrawal of accumulated contributions from the department, the amount to be withheld from the obligor's benefits to satisfy such accrued spousal maintenance is . . . . . dollars.

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the obligee or obligee's attorney, and one

copy to the obligor within twenty days after service of this benefits assignment order upon you.

(1) If you are currently paying periodic retirement payments to the obligor, then you shall do as follows:

(a) Withhold from the obligor's retirement payments each month the lesser of:

(i) The sum of the specified arrearage payment amount plus the specified current spousal maintenance amount; or

(ii) Fifty percent of the disposable benefits of the obligor.

(b) The total amount withheld above is subject to the mandatory benefits assignment order, and all other sums may be disbursed to the obligor.

You shall continue to withhold the ordered amounts from nonexempt benefits of the obligor until notified by a court order that the mandatory benefits assignment order has been modified or terminated. You shall promptly notify the court if and when the obligor is no longer receiving periodic retirement payments from the department of retirement systems.

You shall deliver the withheld benefits to the clerk of the court that issued this mandatory benefits assignment order each month, but the first delivery shall occur no sooner than twenty days after your receipt of this mandatory benefits assignment order.

(2) If you are not currently paying periodic retirement payments to the obligor but the obligor has requested a withdrawal of accumulated contributions, then you shall do as follows:

(a) Withhold from the obligor's benefits the sum of the specified arrearage payment amount plus the specified interest amount, up to one hundred percent of the disposable benefits of the obligor.

(b) The total amount withheld above is subject to the mandatory benefits assignment order, and all other sums may be disbursed to the obligor.

You shall mail a copy of this order and a copy of your answer to the obligor at the mailing address in the department's files as soon as is reasonably possible. This mandatory benefits assignment order has priority over any assignment or order of execution, garnishment, attachment, levy, or similar legal process authorized by Washington law, except for a wage assignment order for child support under chapter 26.18 RCW or order to withhold or deliver under chapter 74.20A RCW.

NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS MANDATORY BENEFITS ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE MANDATORY BENEFITS ASSIGNMENT ORDER.

DATED THIS . . . . day of . . . ., ((~~19. . .~~)) (year) . . . .

. . . .

Obligee, or obligee's attorney

Judge/Court Commissioner

Sec. 33. RCW 43.20B.040 and 1990 c 100 s 3 are each amended to read as follows:

The form of the lien in RCW 43.20B.060 shall be substantially as follows:

STATEMENT OF LIEN

Notice is hereby given that the State of Washington, Department of Social and Health Services, has rendered assistance or provided residential care to . . . . . ., a person who was injured on or about the . . . . day of . . . . . in the county of . . . . . state of . . . . . ., and the said department hereby asserts a lien, to the extent provided in RCW 43.20B.060, for the amount of such assistance or residential care, upon any sum due and owing . . . . . (name of injured person) from . . . . . ., alleged to have caused the injury, and/or his or her insurer and from any other person or insurer liable for the injury or obligated to compensate the injured person on account of such injuries by contract or otherwise.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES
By: . . . . . (Title)

STATE OF WASHINGTON)
) ss.
COUNTY OF)

I, ..., being first duly sworn, on oath state: That I am . . . . . (title); that I have read the foregoing Statement of Lien, know the contents thereof, and believe the same to be true.

. . . . . .

Signed and sworn to or affirmed before me this . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . .

by . . . . . (name of person making statement).

(Seal or stamp)

. . . . . .
Notary Public in and for the State of Washington
My appointment expires: . . . . . .

Sec. 34. RCW 58.09.080 and 1973 c 50 s 8 are each amended to read as follows:

Certificates shall appear on the record of survey map as follows:

SURVEYOR'S CERTIFICATE

This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Survey Recording Act at the request of . . . . . in . . . . . ., ((~~19. . .~~)) (year) . . . .

Name of Person
(Signed and Sealed) . . . . . .
Certificate No. . . . . .

AUDITOR'S CERTIFICATE

Filed for record this . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . . at . . . . .M. in book . . . . of . . . . at page . . . . at the request of . . . . . .

(Signed) . . . . . .
County Auditor

Sec. 35. RCW 60.08.020 and 2012 c 117 s 131 are each amended to read as follows:

In order to make such lien effectual, the lien claimant shall, within ninety days from the date of delivery of such chattel to the owner, file in the office of the auditor of the county in which such chattel is kept, a lien notice, which notice shall state the name of the claimant, the name of the owner, a description of the chattel upon which the claimant has performed labor or furnished material, the amount for which a lien is claimed, and the date upon which such expenditure of labor or material was completed, which notice shall be signed by the claimant or someone on his or her behalf, and may be in substantially the following form:

CHATTEL LIEN NOTICE.

. . . . . Claimant,
against
. . . . . Owner.

Notice is hereby given that . . . . . has and claims a lien upon (here insert description of chattel), owned by . . . . . for the sum of . . . . . dollars, for and on account of labor, skill and material expended upon said . . . . . which was completed upon the . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . .

. . . . . .
Claimant.

Sec. 36. RCW 61.12.020 and 1929 c 33 s 12 are each amended to read as follows:

Mortgages of land may be made in substantially the following form: The mortgagor (here insert name or names) mortgages to (here insert name or names) to secure the payment of (here insert the nature and amount of indebtedness, showing when due, rate of interest, and whether evidenced by note, bond or other instrument or not) the following described real estate (here insert description) situated in the county of . . . . ., state of Washington.

Dated this . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . .

Every such mortgage, when otherwise properly executed, shall be deemed and held a good and sufficient conveyance and mortgage to secure the payment of the money therein specified. The parties may insert in such mortgage any lawful agreement or condition.

Sec. 37. RCW 64.04.030 and 2012 c 117 s 186 are each amended to read as follows:

Warranty deeds for the conveyance of land may be substantially in the following form, without express covenants:

The grantor (here insert the name or names and place of residence) for and in consideration of (here insert consideration) in hand paid, conveys and warrants to (here insert the grantee's name or names) the following described real estate (here insert description), situated in the county of . . . . . ., state of Washington. Dated this . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . .

Every deed in substance in the above form, when otherwise duly executed, shall be deemed and held a conveyance in fee simple to the grantee, his or her heirs and assigns, with covenants on the part of the grantor: (1) That at the time of the making and delivery of such deed he or she was lawfully seized of an indefeasible estate in fee simple, in and to the premises therein described, and had good right and full power to convey the same; (2) that the same were then free from all encumbrances; and (3) that he or she warrants to the grantee, his or her heirs and assigns, the quiet and peaceable possession of such premises, and will defend the title thereto against all persons who may lawfully claim the same, and such covenants shall be obligatory upon any grantor, his or her heirs and personal representatives, as fully and with like effect as if written at full length in such deed.

Sec. 38. RCW 64.04.040 and 2012 c 117 s 187 are each amended to read as follows:

Bargain and sale deeds for the conveyance of land may be substantially in the following form, without express covenants:

The grantor (here insert name or names and place of residence), for and in consideration of (here insert consideration) in hand paid, bargains, sells, and conveys to (here insert the grantee's name or names) the following described real estate (here insert description) situated in the county of . . . . . ., state of Washington. Dated this . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . .

Every deed in substance in the above form when otherwise duly executed, shall convey to the grantee, his or her heirs or assigns an estate of inheritance in fee simple, and shall be adjudged an express covenant to the grantee, his or her heirs or assigns, to wit: That the grantor was seized of an indefeasible estate in fee simple, free from encumbrances, done or suffered from the grantor, except the rents and services that may be reserved, and also for quiet enjoyment against the grantor, his or her heirs and assigns, unless limited by express words contained in such deed; and the grantee, his or her heirs, executors, administrators, and assigns may recover in any action for breaches as if such covenants were expressly inserted.

Sec. 39. RCW 64.04.050 and 2012 c 117 s 188 are each amended to read as follows:

Quitclaim deeds may be in substance in the following form:

The grantor (here insert the name or names and place of residence), for and in consideration of (here insert consideration) conveys and quitclaims to (here insert grantee's name or names) all interest in the following described real estate (here insert description), situated in the county of . . . . . ., state of Washington. Dated this . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . .

Every deed in substance in the above form, when otherwise duly executed, shall be deemed and held a good and sufficient conveyance, release and quitclaim to the grantee, his or her heirs and assigns in fee of all the then existing legal and equitable rights of the grantor in the premises therein described, but shall not

extend to the after acquired title unless words are added expressing such intention.

Sec. 40. RCW 64.08.060 and 1988 c 69 s 2 are each amended to read as follows:

A certificate of acknowledgment for an individual, substantially in the following form or, after December 31, 1985, substantially in the form set forth in RCW 42.44.100(1), shall be sufficient for the purposes of this chapter and for any acknowledgment required to be taken in accordance with this chapter:

State of . . . . . }
} ss.
County of . . . . . }

On this day personally appeared before me (here insert the name of grantor or grantors) to me known to be the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged that he (she or they) signed the same as his (her or their) free and voluntary act and deed, for the uses and purposes therein mentioned. Given under my hand and official seal this . . . . day of . . . . . ((~~19. . .~~)) (year) . . . . (Signature of officer and official seal)

If acknowledgment is taken before a notary public of this state the signature shall be followed by substantially the following: Notary Public in and for the state of Washington, residing at . . . . . ., (giving place of residence).

Sec. 41. RCW 64.08.070 and 2012 c 117 s 191 are each amended to read as follows:

A certificate of acknowledgment for a corporation, substantially in the following form or, after December 31, 1985, substantially in the form set forth in RCW 42.44.100(2), shall be sufficient for the purposes of this chapter and for any acknowledgment required to be taken in accordance with this chapter:

State of . . . . . }
} ss.
County of . . . . . }

On this . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . ., before me personally appeared . . . . . ., to me known to be the (president, vice president, secretary, treasurer, or other authorized officer or agent, as the case may be) of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written. (Signature and title of officer with place of residence of notary public.)

Sec. 42. RCW 65.12.035 and 2009 c 521 s 145 are each amended to read as follows:

The form of application may, with appropriate changes, be substantially as follows:

FORM OF APPLICATION FOR
INITIAL REGISTRATION OF TITLE TO LAND

State of Washington
ss.
County of . . . . . ,

In the superior court of the state of Washington in and for . . . . . county.

In the matter of the application of . . . . . to register the title to the land hereinafter described — PETITION

To the Honorable . . . . ., judge of said court: I hereby make application to have registered the title to the land hereinafter described, and do solemnly swear that the answers to the questions herewith, and the statements herein contained, are true to the best of my knowledge, information and belief.

First. Name of applicant, ..., age, ... years.

Residence, ... (number and street, if any). Married to or in a state registered domestic partnership with . . . . . (name of husband, wife, or state registered domestic partner).

Second. Applications made by . . . . ., acting as . . . . . (owner, agent or attorney). Residence, ... (number, street).

Third. Description of real estate is as follows:

. . . . . .
. . . . . .
. . . . . .
. . . . . .

estate or interest therein is . . . . . and . . . . . subject to homestead.

Fourth. The land is . . . . . occupied by . . . . . (names of occupants), whose address is . . . . . (number street and town or city). The estate, interest or claim of occupant is . . . . .

Fifth. Liens and incumbrances on the land . . . . . Name of holder or owner thereof is . . . . . Whose post office address is . . . . . Amount of claim, $. . . . Recorded, Book . . ., page . . ., of the records of said county.

Sixth. Other persons, firm or corporation having or claiming any estate, interest or claim in law or equity, in possession, remainder, reversion or expectancy in said land are . . . . . whose addresses are . . . . . respectively. Character of estate, interest or claim is . . . . . .

Seventh. Other facts connected with said land and appropriate to be considered in this registration proceeding are . . . . . .

Eighth. Therefore, the applicant prays this honorable court to find or declare the title or interest of the applicant in said land and decree the same, and order the registrar of titles to register the same and to grant such other and further relief as may be proper in the premises.

. . . . . .

(Applicant's signature)

By . . . . . ., agent, attorney, administrator or guardian.

Subscribed and sworn to before me this . . . . day of . . . . . ., A.D. ((~~19. . .~~)) (year) . . . .

. . . . . .

Notary Public in and for the state of Washington, residing at . . . . . .

Sec. 43. RCW 65.12.125 and 1907 c 250 s 206 are each amended to read as follows:

The summons provided for in RCW 65.12.135 shall be in substance in the form following, to wit:

SUMMONS ON APPLICATION FOR REGISTRATION OF LAND

State of Washington, }
} ss.
County of . . . . . }

In the superior court of the state of Washington in and for the county of . . . . . (name of applicant), plaintiff, ..., versus . . . . . (names of all defendants), and all other persons or parties unknown, claiming any right, title, estate, lien or interest in the real estate, described in the application herein . . . . . defendants.

The state of Washington to the above-named defendants, greeting:

You are hereby summoned and required to answer the application of the applicant plaintiff in the above entitled application for registration of the following land situate in . . . . . county, Washington, to wit: (description of land), and to file your answer to the said application in the office of the clerk of said court, in said county, within twenty days after the service of this summons upon you, exclusive of the day of such service; and if you fail to answer the said application within the time aforesaid, the applicant plaintiff in this action will apply to the court for the relief demanded in the application herein.

Witness, ... , clerk of said court and the seal thereof, at . . . . . , in said county and state, this . . . . day of . . . . . , A.D. ((~~19. . .~~)) (year) . . . .

(Seal.) . . . . . Clerk.

Sec. 44. RCW 65.12.230 and 1917 c 62 s 3 are each amended to read as follows:

The owner or owners of registered lands, desiring to withdraw the same from registration, shall make and file with the registrar of titles in the county in which said lands are situated, an application in substantially the following form:

To the registrar of titles in the county of . . . . . , state of Washington:

I, (or we), ... , the undersigned registered owner . . . in fee simple of the following described real property situated in the county of . . . . . , state of Washington, to wit: (here insert the description of the property), hereby make application to have the title to said real property withdrawn from registration.

Witness my (or our) hand . . . and seal . . . this . . . . day of . . . . . , ((~~19. . .~~)) (year) . . . .

. . . . . Applicant's signature.

Said application shall be acknowledged in the same manner as is required for the acknowledgment of deeds.

Sec. 45. RCW 65.12.235 and 2012 c 117 s 227 are each amended to read as follows:

Upon the filing of such application and the payment of a fee of five dollars, the registrar of titles, if it shall appear that the application is signed and acknowledged by all the registered owners of said land, shall issue to the applicant a certificate in substantially the following form:

This is to certify, That . . . . . the owner (or owners) in fee simple of the following described lands situated in the county of . . . . . ., state of Washington, the title to which has been heretofore registered under the laws of the state of Washington, to wit: (here insert description of the property), having heretofore filed his or her (or their) application for the withdrawal of the title to said lands from the registry system; NOW, THEREFORE, The title to said above described lands has been withdrawn from the effect and operation of the title registry system of the state of Washington and the owner (or owners) of said lands is (or are) by law authorized to contract concerning, convey, encumber, or otherwise deal with the title to said lands in the same manner and to the same extent as though said title had never been registered.

Witness my hand and seal this . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . .

. . . . . .
Registrar of Titles for
. . . . . county.

Sec. 46. RCW 65.12.255 and 2012 c 117 s 229 are each amended to read as follows:

The certificate of registration shall contain the name of the owner, a description of the land and of the estate of the owner, and shall by memorial or notation contain a description of all incumbrances, liens, and interests to which the estate of the owner is subject; it shall state the residence of the owner and, if a minor, give his or her age; if under disability, it shall state the nature of the disability; it shall state whether married or not, and, if married, the name of the husband or wife; in case of a trust, condition or limitation, it shall state the trust, condition, or limitation, as the case may be; and shall contain and conform in respect to all statements to the certified copy of the decree of registration filed with the registrar of titles as hereinbefore provided; and shall be in form substantially as follows:

FIRST CERTIFICATE OF TITLE

Pursuant to order of the superior court of the state of Washington, in and for . . . . . county.

State of Washington, }
} ss.
County of . . . . . , }

This is to certify that A. . . . . B. . . . . of . . . . . ., county of . . . . . ., state of . . . . . ., is now the owner of an estate (describe the estate) of, and in (describe the land), subject to the incumbrances, liens and interests noted by the memorial underwritten or indorsed thereon, subject to the exceptions and qualifications mentioned in the thirtieth section of "An Act relating to the registration and confirmation of titles to land," in the session laws of Washington for the year 1907 [RCW 65.12.195]. (Here note all statements provided herein to appear upon the certificate.)

In witness whereof, I have hereunto set my hand and affixed the official seal of my office this . . . . day of . . . . . ., A.D. ((~~19. . .~~)) (year) . . . .

(Seal)

. . . . . ,
Registrar of Titles.

Sec. 47. RCW 65.12.270 and 1907 c 250 s 38 are each amended to read as follows:

All certificates subsequent to the first shall be in like form, except that they shall be entitled: "Transfer from No. . . . .", (the number of the next previous certificate relating to the same land), and shall also contain the words "Originally registered on the . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . ., and entered in the book . . . . . at page . . . . of register."

Sec. 48. RCW 67.38.030 and 1982 1st ex.s. c 22 s 3 are each amended to read as follows:

(1) The process to create a cultural arts, stadium and convention district may be initiated by:

(a) The adoption of a resolution by the county legislative authority calling for a public hearing on the proposed creation of such a district and delineating proposed boundaries of the district; or

(b) The governing bodies of two or more cities located within the same county adopting resolutions calling for a public hearing on the proposed creation of such a district and delineating proposed boundaries of such a district: PROVIDED, That this method may not be used more frequently than once in any twelve month period in the same county; or

(c) The filing of a petition with the county legislative authority, calling for a public hearing on the proposed creation of such a district and delineating proposed boundaries of the district, that is signed by at least ten percent of the registered voters residing in the proposed district at the last general election. Such signatures will be certified by the county auditor or the county elections department.

(2) Within sixty days of the adoption of such resolutions, or presentation of such a petition, the county legislative authority shall hold a public hearing on the proposed creation of such a district. Notice of the hearing shall be published at least once a week for three consecutive weeks in one or more newspapers of general circulation within the proposed boundaries of the district. The notice

shall include a general description and map of the proposed boundaries. Additional notice shall also be mailed to the governing body of each city and municipality located all or partially within the proposed district. At such hearing, or any continuation thereof, any interested party may appear and be heard on the formation of the proposed district.

The county legislative authority shall delete the area included within the boundaries of a city from the proposed district if prior to the public hearing the city submits to the county legislative authority a copy of an adopted resolution requesting its deletion from the proposed district. The county legislative authority may delete any other areas from the proposed boundaries. Additional territory may be included within the proposed boundaries, but only if such inclusion is subject to a subsequent hearing, with notice provided in the same manner as for the original hearing.

(3) A proposition to create a cultural arts, stadium and convention district shall be submitted to the voters of the proposed district within two years of the adoption of a resolution providing for such submittal by the county legislative authority at the conclusion of such hearings. The resolution shall establish the boundaries of the district and include a finding that the creation of the district is in the public interest and that the area included within the district can reasonably be expected to benefit from its creation. No portion of a city may be included in such a district unless the entire city is included. The boundaries of such a district shall follow school district or community college boundaries in as far as practicable.

(4) The proposition to create a cultural arts, stadium and convention district shall be submitted to the voters of the proposed district at the next general election held sixty or more days after the adoption of the resolution. The district shall be created upon approval of the proposition by simple majority vote. The ballot proposition submitted to the voters shall be in substantially the following form:

FORMATION OF CULTURAL ARTS,
STADIUM AND CONVENTION
DISTRICT . . . . . .

Shall a cultural arts, stadium and convention district be established for the area described in a resolution of the legislative authority of . . . . . county, adopted on the . . . . day of . . . . . ., ((~~19. .~~)) (year) . . . .?

Yes . . . . . .

No . . . . . .

Sec. 49. RCW 84.40.320 and 1988 c 222 s 18 are each amended to read as follows:

The assessor shall add up and note the amount of each column in the detail and assessment lists in such manner as prescribed or approved by the state department of revenue, as will provide a convenient and permanent record of assessment. The assessor shall also make, under proper headings, a certification of the assessment rolls and on the 15th day of July shall file the same with the clerk of the county board of equalization for the purpose of equalization by the said board. Such certificate shall be verified by an affidavit, substantially in the following form:

State of Washington, ... County, ss.

I, ..., Assessor . . . . . ., do solemnly swear that the assessment rolls and this certificate contain a correct and full list of all the real and personal property subject to taxation in this county for the assessment year ((~~19. . .~~)) (year) . . . ., so far as I have been able to ascertain the same; and that the assessed value set down in the proper column, opposite the several kinds and descriptions of property, is in each case, except as otherwise provided by law, one hundred percent of the true and fair value of such property, to the best of my knowledge and belief, and that the assessment rolls and this certificate are correct, as I verily believe.

. . . . . ., Assessor.

Subscribed and sworn to before me this . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . .

(L. S.) . . . . . ., Auditor of . . . . . county.

PROVIDED, That the failure of the assessor to complete the certificate shall in nowise invalidate the assessment. After the same has been duly equalized by the county board of equalization, the same shall be delivered to the county assessor.

Sec. 50. RCW 85.28.060 and 2013 c 23 s 442 are each amended to read as follows:

Upon the filing of the report of the viewers aforesaid, a summons shall be issued in the same manner as summons are issued in civil actions, and served upon each person owning or interested in any lands over which the proposed ditch or drain will pass. Said summons must inform the person to whom it is directed of the appointment and report of the viewers; a description of the land over which said ditch will pass of which such person is the owner, or in which he or she has an interest; the width and depth of said proposed ditch, and the distance which it traverses said land, also an accurate description of the course thereof. It must also show the amount of damages to said land as estimated by said viewers; and that unless the person so summoned appears and files objections to the report of the viewers, within twenty days after the service of said summons upon him or her, exclusive of the day of service, the same will be approved by the court, which summons may be in the following form:

In the Superior Court of the State of Washington, for . . . . . County.

In the matter of the application of . . . . . for a private ditch.

The state of Washington to . . . . . .

Whereas, on the . . . . day of . . . . . ((~~19. . .~~)) (year) . . . . filed his or her petition in the above entitled court praying that a private ditch or drain be established across the following described lands, to wit: . . . . . .

. . . . . .

for the purpose of draining certain lands belonging to said . . . . . ., and whereas, on the . . . . day of . . . . . ., ((~~19. . .~~)) (year) . . . ., Messrs. . . . . and . . . . . with . . . . . county surveyor of . . . . . county, were appointed to view said premises in the manner provided by law, and said viewers having, on the . . . . day of . . . . ., ((~~19. . .~~)) (year) . . ., filed their report in this court, finding in favor of said ditch and locating the same upon the following course: . . . . . for a distance of . . . . . upon said land, and of a width of . . . . feet and a depth of . . . . feet; and they further find that said land will be damaged by the establishing and construction of said ditch in the sum of $. . . .: Now therefore, you are hereby summoned to appear within twenty days after the service of this summons,

exclusive of the day of service, and file your objections to said petition and the report of said viewers, with this court; and in case of your failure so to do, said report will be approved and said petition granted.

. . . . . .
Plaintiff's Attorney.
P.O. Address . . . . . .

Sec. 51. RCW 88.32.070 and 1985 c 469 s 95 are each amended to read as follows:

After the return of the assessment roll to the county legislative authority it shall make an order setting a day for the hearing upon any objections to the assessment roll by any parties affected thereby who shall be heard by the county legislative authority as a board of equalization, which date shall be at least twenty days after the filing of such roll. It shall be the duty of the county legislative authority to give, or cause to be given, notice of such assessment, and of the day fixed for the hearing, as follows:

(1) They shall send or cause to be sent, by mail, to each owner of premises assessed, whose name and place of residence is known to them, a notice, substantially in this form, to wit:

" . . . . . .

"Your property (here describe the property) is assessed $. . . . . for river and harbor improvement to be made in this county.

"Hearing on the assessment roll will be had before the undersigned, at the office of the county commissioners, on the . . . . day of . . . . . ((~~19. . .~~)) (year) . . . .

. . . . . .
. . . . . .
. . . . . .
"Board of county commissioners."

But failure to send, or cause to be sent, such notice, shall not be fatal to the proceedings herein prescribed.

(2) They shall cause at least ten days' notice of the hearing to be given by posting notice in at least ten public places in the county, three of which shall be in the neighborhood of the proposed improvement, and by publishing the same at least once a week for two consecutive weeks in the official newspaper of the county which notice shall be signed by the county legislative authority, and shall state the day and place of the hearing of objections to the assessment roll, and the nature of the improvement, and that all interested parties will be heard as to any objections to said assessment roll.

Sec. 52. RCW 88.32.140 and 2013 c 23 s 541 are each amended to read as follows:

(1) In all cases, the county, as the agent of the local improvement district, shall, by resolution of its county legislative authority, cause to be issued in the name of the county, the bonds for such local improvement district for the whole estimated cost of such improvement, less such amounts as shall have been paid within the thirty days provided for redemption, as hereinabove specified. Such

bonds shall be called "Local Improvement Bonds, District No. . . . ., County of . . . . . ., State of Washington", and shall be payable not more than ten years after date, and shall be subject to annual call by the county treasurer, in such manner and amounts as he or she may have cash on hand to pay the same in the respective local improvement fund from which such bonds are payable, interest to be paid at the office of the county treasurer. Such bonds shall be issued and delivered to the contractor for the work from month to month in such amounts as the engineer of the government, in charge of the improvement, shall certify to be due on account of work performed, or, if said county legislative authority resolves so to do, such bonds may be offered for sale after thirty days public notice thereof given, to be delivered to the highest bidder therefor, but in no case shall such bonds be sold for less than par, the proceeds to be applied in payment for such improvement: PROVIDED, That unless the contractor for the work shall agree to take such bonds in payment for his or her work at par, such work shall not be begun until the bonds shall have been sold and the proceeds shall have been paid into a fund to be called "Local Improvement Fund No. . . . ., County of . . . . . .", and the owner or owners of such bonds shall look only to such fund for the payment of either the principal or interest of such bonds.

Such bonds shall be issued in denominations of one hundred dollars each, and shall be substantially in the following form:

"Local Improvement Bond, District Number . . . . of the County of . . . . . ., State of Washington.

No. . . . . N.B. . . . . $ . . . . . .

This bond is not a general debt of the county of . . . . . and has not been authorized by the voters of said county as a part of its general indebtedness. It is issued in pursuance of an act of the legislature of the state of Washington, passed the . . . . day of . . . . . A.D. 1907, and is a charge against the fund herein specified and its issuance and sale is authorized by the resolution of the county legislative authority, passed on the . . . . day of . . . . . A.D. 1907. The county of . . . . . ., a municipal corporation of the state of Washington, hereby promises to pay to . . . . . ., or bearer, one hundred dollars, lawful money of the United States of America, out of the fund established by resolution of the county legislative authority on the . . . . day of . . . . . ., A.D. ((~~19. . .~~)) (year) . . . ., and known as local improvement fund district number . . . . of . . . . . county, and not otherwise.

"This bond is payable ten years after date, and is subject to annual call by the county treasurer at the expiration of any year before maturity in such manner and amounts as he or she may have cash on hand to pay the same in the said fund from which the same is payable, and shall bear interest at the rate of . . . . percent per annum, payable semiannually; both principal and interest payable at the office of the county treasurer. The county legislative authority of said county, as the agent of said local improvement district No. . . . ., established by resolution No. . . . ., has caused this bond to be issued in the name of said county, as the bond of said local improvement district, the proceeds thereof to be applied in part payment of so much of the cost of the improvement of the rivers, lakes, canals, or harbors of . . . . . county, under resolution No. . . . ., as is to be borne by the owners of property in said local improvement district, and the said local improvement fund, district No. . . . . of . . . . . county, has been established by

resolution for said purpose; and the owner or owners of this bond shall look only to said fund for the payment of either the principal or interest of this bond.

"The call for the payment of this bond or any bond, issued on account of said improvement, may be made by the county treasurer by publishing the same in an official newspaper of the county for ten consecutive issues, beginning not more than twenty days before the expiration of any year from date hereof, and if such call be made, interest on this bond shall cease at the date named in such call.

"This bond is one of a series of . . . . . bonds, aggregating in all the principal sum of . . . . . dollars, issued for said local improvement district, all of which bonds are subject to the same terms and conditions as herein expressed.

"In witness whereof the said county of . . . . . has caused these presents to be signed by its chair of its county legislative authority, and countersigned by its county auditor and sealed with its corporate seal, attested by its county clerk, this . . . . day of . . . . . ., in the year of our Lord ((~~one thousand nine hundred and~~)) . . . . . .

The County of . . . . . .

By . . . . . .

Chair County Legislative Authority.

Countersigned, ... County Auditor.
Attest, ... Clerk."

The bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

Sec. 53. RCW 91.08.380 and 1911 c 23 s 36 are each amended to read as follows:

The treasurer receiving such certified copy of the assessment roll and judgment shall immediately give notice thereof by publishing such notice at least once in the official newspaper or newspapers of such county, if such newspaper or newspapers there be; and if there be no such official newspaper, then by publishing such notice in some newspaper of general circulation in the county. Such notice may be in substantially the following form:

"SPECIAL ASSESSMENT NOTICE.

Public notice is hereby given that the superior court of . . . . . county, State of Washington, has rendered judgment for a special assessment upon property benefited by the following improvement (here insert the character and location of the improvement in general terms) as will more fully appear from the certified copy of the assessment roll on file in my office, and that the undersigned is authorized to collect such assessments. All persons interested are hereby notified that they can pay the amounts assessed, or any part thereof, without interest, at my office (here insert location of office) within sixty days from the date hereof.

Dated this . . . . day of . . . . . A.D. ((~~19. .~~)) (year) . . . .

. . . . . .

Treasurer of . . . . . .

county, Washington."

PART II
REMOVING EXPIRED PROVISIONS

NEW SECTION. **Sec. 54.** RCW 19.27A.035 (Payments by electric utilities to owners of residential buildings—Recovery of expenses—Effect of Pacific Northwest electric power planning and conservation act—Expiration of subsections) and 1993 c 64 s 2 & 1990 c 2 s 4 are each repealed.

Sec. 55. RCW 49.12.450 and 1998 c 334 s 2 are each amended to read as follows:

(1) Notwithstanding the provisions of chapter 49.46 RCW or other provisions of this chapter, the obligation of an employer to furnish or compensate an employee for apparel required during work hours shall be determined only under this section.

(2) Employers are not required to furnish or compensate employees for apparel that an employer requires an employee to wear during working hours unless the required apparel is a uniform.

(3) As used in this section, "uniform" means:

(a) Apparel of a distinctive style and quality that, when worn outside of the workplace, clearly identifies the person as an employee of a specific employer;

(b) Apparel that is specially marked with an employer's logo;

(c) Unique apparel representing an historical time period or an ethnic tradition; or

(d) Formal apparel.

(4) Except as provided in subsection (5) of this section, if an employer requires an employee to wear apparel of a common color that conforms to a general dress code or style, the employer is not required to furnish or compensate an employee for that apparel. For the purposes of this subsection, "common color" is limited to the following colors or light or dark variations of such colors: White, tan, or blue, for tops; and tan, black, blue, or gray, for bottoms. An employer is permitted to require an employee to obtain two sets of wearing apparel to accommodate for the seasonal changes in weather which necessitate a change in wearing apparel.

(5) If an employer changes the color or colors of apparel required to be worn by any of his or her employees during a two-year period of time, the employer shall furnish or compensate the employees for the apparel. The employer shall be required to furnish or compensate only those employees who are affected by the change. The two-year time period begins on the date the change in wearing apparel goes into effect and ends two years from this date. The beginning and end of the two-year time period applies to all employees regardless of when the employee is hired.

(6) ((~~The department shall utilize negotiated rule making as defined by RCW 34.05.310(2)(a) in the development and adoption of rules defining apparel that conforms to a general dress code or style. This subsection expires January 1, 2000.~~

~~(7)~~)) For the purposes of this section, personal protective equipment required for employee protection under chapter 49.17 RCW is not deemed to be employee wearing apparel.

PART III
MAKING TECHNICAL CORRECTIONS

Sec. 56. 2013 2nd sp.s. c 4 s 1905 (uncodified) is amended to read as follows:

Section 957 of this act expires ((~~August~~)) January 1, 2018.

Sec. 57. RCW 28B.15.069 and 2015 3rd sp.s. c 36 s 5 and 2015 3rd sp.s. c 4 s 945 are each reenacted to read as follows:

(1) The building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the office of financial management and be based on the actual percentage the building fee is of total tuition for each tuition category in the 1994-95 academic year, rounded up to the nearest half percent. After October 9, 2015, the dollar value of the building fee shall not be reduced below the level in the 2014-15 academic year adjusted for inflation. As used in this subsection, "inflation" has the meaning in RCW 28B.15.066(2).

(2) The governing boards of each institution of higher education shall charge to and collect from each student a services and activities fee. A governing board may increase the existing fee annually, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the annual percentage increase in student tuition fees for resident undergraduate students: PROVIDED, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. These rate adjustments may exceed the fiscal growth factor. For the 2015-2017 fiscal biennium, each governing board is authorized to increase the services and activities fees by amounts judged reasonable and necessary by the services and activities fee committee and the governing board consistent with the budgeting procedures set forth in RCW 28B.15.045. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

(3) Tuition and services and activities fees consistent with subsection (2) of this section shall be set by the state board for community and technical colleges for community and technical college summer school students unless the college charges fees in accordance with RCW 28B.15.515.

(4) Subject to the limitations of RCW 28B.15.910, each governing board of a community or technical college may charge such fees for ungraded courses, noncredit courses, community services courses, and self-supporting courses as it, in its discretion, may determine, consistent with the rules of the state board for community and technical colleges.

(5) The governing board of a college offering an applied baccalaureate degree program under RCW 28B.50.810 may charge tuition fees for those courses above the associate degree level at rates consistent with rules adopted by the state board for community and technical colleges, not to exceed tuition fee rates at the regional universities.

Sec. 58. RCW 43.19.501 and 2015 3rd sp.s. c 3 s 7031 are each reenacted to read as follows:

The Thurston county capital facilities account is created in the state treasury. The account is subject to the appropriation and allotment procedures under chapter 43.88 RCW. Moneys in the account may be expended for capital projects

in facilities owned and managed by the department in Thurston county. For the 2007-2009 biennium, moneys in the account may be used for predesign identified in section 1037, chapter 328, Laws of 2008. For the 2015-2017 biennium, moneys in the account may be used for studies related to real estate.

During the 2009-2011 and 2011-2013 fiscal biennia, the legislature may transfer from the Thurston county capital facilities account to the state general fund such amounts as reflect the excess fund balance of the account.

NEW SECTION. **Sec. 59.** Section 1, chapter 65, Laws of 2015 expires July 1, 2020.

Sec. 60. RCW 36.32.080 and 2015 c 179 s 1 and 2015 c 74 s 1 are each reenacted and amended to read as follows:

(1) The county legislative authority of each county shall hold regular meetings at the county seat or at a location designated in accordance with subsection (2) or (3) of this section to transact any business required or permitted by law.

(2)(a) Any two or more county legislative authorities may hold a joint regular meeting solely in the county seat of a participating county if the agenda item or items relate to actions or considerations of mutual interest or concern to the participating legislative authorities.

(b) A legislative authority participating in a joint regular meeting held in accordance with this subsection (2) must, for purposes of the meeting, comply with notice requirements for special meetings provided in RCW 42.30.080. This subsection (2)(b) does not apply to the legislative authority of the county in which the meeting will be held.

(3)(a) As an alternative option that may be exercised no more than once per calendar quarter, regular meetings may be held at a location outside of the county seat but within the county if the county legislative authority determines that holding a meeting at an alternate location would be in the interest of supporting greater citizen engagement in local government.

(b) The county legislative authority must give notice of any regular meeting held ((outside of the county seat. Notice must be given)) pursuant to this subsection (3) at least thirty days before the time of the meeting specified in the notice. At a minimum, notice must be:

(i) Posted on the county's web site;

(ii) Published in a newspaper of general circulation in the county; and

(iii) Sent via electronic transmission to any resident of the county who has chosen to receive the notice required under this section at an ((electronic mail [email])) email address.

Sec. 60 was vetoed. See message at end of chapter.

Sec. 61. RCW 43.07.173 and 1998 c 38 s 1 are each amended to read as follows:

(1) The secretary of state ((~~shall~~)) may accept and file in the secretary's office ((~~facsimile~~)) electronic transmissions of any documents authorized or required to be filed pursuant to Title 23, 23B, 24, or 25 RCW or chapter 18.100 RCW. The acceptance by the secretary of state is conditional upon the document being legible and otherwise satisfying the requirements of state law or rules with respect to form and content, including those established under RCW 43.07.170.

If the document must be signed, that requirement ((~~is~~)) may be satisfied by ((~~a facsimile copy of the~~)) an electronic signature as defined in RCW 19.34.020.

(2) If a fee is required for filing the document, the secretary may reject the document for filing if the fee is not received before, or at the time of, receipt.

Sec. 62. RCW 43.07.190 and 1991 c 72 s 56 are each amended to read as follows:

Where the secretary of state determines that a summary face sheet or cover sheet would expedite review of any documents made under Title 23B RCW, or chapter 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.36, ((~~or~~)) 25.10, or 25.15 RCW, the secretary of state may require the use of a summary face sheet or cover sheet that accurately reflects the contents of the attached document. The secretary of state may, by rule adopted under chapter 34.05 RCW, specify the required contents of any summary face sheet and the type of document or documents in which the summary face sheet will be required, in addition to any other filing requirements which may be applicable.

Sec. 63. RCW 43.07.400 and 2007 c 156 s 3 are each amended to read as follows:

(1) The state domestic partnership registry is created within the secretary of state's office.

(2)(a) The secretary shall prepare a form((~~s~~)) entitled "declaration of state registered domestic partnership" ((~~and "notice of termination of state registered domestic partnership"~~)) to meet the requirements of RCW 26.60.010, 26.60.020, 26.60.030, and 26.60.070.

(b) The "declaration of state registered domestic partnership" form must contain a statement that registration may affect property and inheritance rights, that registration is not a substitute for a will, deed, or partnership agreement, and that any rights conferred by registration may be completely superseded by a will, deed, or other instrument that may be executed by either party. The form must also contain instructions on how the partnership may be terminated.

(((~~(c) The "notice of termination of state registered domestic partnership" form must contain a statement that termination may affect property and inheritance rights, including beneficiary designations, and other agreements, such as the appointment of a state registered domestic partner as an attorney-in-fact under a power of attorney.~~)))

(3) ((~~The secretary shall distribute these forms to each county clerk. These~~)) This form((~~s~~)) shall be available to the public at the secretary of state's office((~~, each county clerk,~~)) and on the internet.

(4) The secretary shall adopt rules necessary to implement the administration of the state domestic partnership registry.

NEW SECTION. **Sec. 64.** The following acts or parts of acts are each repealed:

(1) RCW 43.07.050 (Bureau of statistics—Secretary ex officio commissioner) and 2009 c 549 s 5028 & 1965 c 8 s 43.07.050;

(2) RCW 43.07.090 (Bureau of statistics—Power to obtain statistics—Penalty) and 2009 c 549 s 5029 & 1965 c 8 s 43.07.090;

(3) RCW 43.07.100 (Bureau of statistics—Information confidential—Penalty) and 1965 c 8 s 43.07.100;

(4) RCW 43.07.110 (Bureau of statistics—Deputy commissioner) and 2009 c 549 s 5030 & 1965 c 8 s 43.07.110; and

(5) RCW 43.07.205 (Contract to issue conditional federal employer identification numbers, credentials, and documents in conjunction with license applications) and 1997 c 51 s 3.

Passed by the House March 8, 2016.

Passed by the Senate March 1, 2016.

Approved by the Governor April 1, 2016, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 4, 2016.

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

"I am returning herewith, without my approval as to Section 60, Substitute House Bill No. 2359 entitled:

"AN ACT Relating to updating obsolete provisions and making technical corrections."

This section is a duplicate of House Bill 2800, so it is unnecessary.

For these reasons I have vetoed Section 60 of Substitute House Bill No. 2359.

With the exception of Section 60, Substitute House Bill No. 2359 is approved."

AUTHENTICATION

I, K. Kyle Thiessen, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2016 session (64th Legislature), chapters 1 through 202, 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 28th day of April, 2016.

K. KYLE THIESSEN
Code Reviser